

URBAN ABORIGINAL GOVERNANCE IN CANADA

RE-FASHIONING THE DIALOGUE

CA1
LCC
- 1999
R22

3 1761 11766485 4



URBAN ABORIGINAL GOVERNANCE IN CANADA

RE-FASHIONING THE DIALOGUE

THE NATIONAL ASSOCIATION OF FRIENDSHIP CENTERS

AND

THE LAW COMMISSION OF CANADA



ISBN 0-662-27891-7

Catalogue No. JL 2-5-/1999E

Prologue

This paper reports the findings of a joint research project initiated in June of 1998 by the National Association of Friendship Centres (NAFC) and the Law Commission of Canada (LCC) focused on Aboriginal governance in urban settings and the challenge of engaging youth. Our project involved literature reviews and legal policy analysis, program and service documentation, best practices surveys and, during the late Autumn of 1998, ten focus circles with urban Aboriginal representatives. On that basis, we are distributing this aid to re-fashioning and broadening the dialogue into urban Aboriginal governance and to sponsor more in-depth discussion about challenges facing Aboriginal youth in urban areas.

Aboriginal governance in urban Canada is an often delicate and difficult arena of policy and law, in which there are several contending lines of debate. Our approach to facilitating dialogue and action has been to compare the directions emerging from two major touch-stones of law and political philosophy: that of contemporary Aboriginal and treaty rights jurisprudence, and that of democratic liberalism. Taking into account the views and guidance from hundreds of urban Aboriginal people and professionals in governments at all levels, we hope this paper and the thoughts and suggestions we advance will sponsor renewed effort at reconciliation in the implementation of urban self-government.

We wish to express our thanks to our principal research consultant and author, Robert Groves, of *The Aboriginal Affairs Group*. Professor Patrick Macklem of the University of Toronto Faculty of Law is thanked for his on-going guidance to Mr. Groves in matters of law and legal pluralism. While this paper summarizes recent court decisions of relevance to the right of self-government and a range of urban applications, neither the LCC nor the NAFC are offering legal advice, whether to Aboriginal peoples or to governments.


Guidance on the overall research project and the completion of this paper was provided by a project steering committee comprised of the Executive Directors of the LCC and NAFC, Mssrs. Bruno Bonneville and Wm. Marc Maracle, the LCC Research Director, Ms. Susan Zimmerman and the NAFC's Senior Advisor, Mr. Mark Gryba, who also co-moderated the focus groups with Mr. Groves. The Aboriginal Youth Council was represented throughout the project by its President, Stacey Hill. Research assistance on the project, including the development of statistical analysis, survey and focus circle data coding, as well as the annotation of bibliographical materials has been provided by NAFC and LCC staff and contract researchers: Salim Fakirani, Hélène Sioui-Trudel, Maggie Walsh and Deborah Watts. Their work is greatly appreciated.

We have been able to profit from responses to abbreviated versions of this paper presented to Completing the Circle: Aboriginal Governance in Urban Settings, a conference held in Winnipeg in early November, 1998, as well as discussions on a similar paper provided to the Senate of Canada's Standing Committee on Aboriginal Peoples and its Aboriginal Governance Roundtable.

Finally we all wish to express our gratitude to the hundreds of urban professionals, governmental representatives and Aboriginal people living in urban Canada who participated in the project and lent so generously of their time, and their wisdom. It is our most sincere hope that this investment will be rewarded through more tangible progress in reviving representative, responsible and effective governance amongst Aboriginal peoples, regardless of where they reside, as for all Canadians.

Roderick A. Macdonald, President
LAW COMMISSION OF CANADA

Wayne Helgason, President
NATIONAL ASSOCIATION OF FRIENDSHIP CENTRES



Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761117664854>

TABLE OF CONTENTS

I SETTING THE STAGE FOR DIALOGUE	1
A. INTRODUCTION.....	1
B. THE DEMOGRAPHIC CONTEXT.....	2
C. LINES OF DEBATE.....	8
1. Urban Aboriginal People as Voluntary Immigrants.....	9
2. The Right of Self-Government within Urban Settings.....	9
3. Urban Self-Government as "Un-Aboriginal".....	9
4. Assigning Responsibilities.....	10
D. A NORMATIVE RE-ASSESSMENT.....	10
E. ASSESSING OPTIONS: NORMS, PRAGMATICS & PREFERENCES.....	11
F. ENGAGING YOUTH.....	12
II NORMATIVE GROUNDS FOR RE-ASSESSMENT	13
A. ABORIGINAL RIGHTS: EXPRESSIONS OF POLICY AND LAW.....	13
1. Section 35.....	17
2. The Royal Commission and Urban Self-Government.....	17
3. Federal Policy and Practice.....	22
4. Drawing Conclusions.....	25
B. LIBERAL DEMOCRACY AND THE ACCOMMODATION OF DIVERSITY.....	27
1. Territoriality.....	30
2. Non-Territorial Accommodation of Collective Diversity.....	34
3. Privatizing Governance.....	37
C. COMMON AND DIVERGENT NORMS.....	38
III ABORIGINAL GOVERNANCE IN URBAN CANADA	43
A. NATION SPECIFIC APPROACHES.....	44
1. Normative Analysis.....	45
2. Issues of Applicability.....	47
3. Urban Aboriginal Views.....	49
B. URBAN COMMUNAL GOVERNANCE.....	50
1. Normative Analysis.....	50
2. Issues of Applicability.....	53
3. Urban Aboriginal Views.....	54
C. TERRITORIAL/MAJORITY MODELS.....	55
1. Normative Analysis.....	55
2. Issues of Applicability.....	57
3. Urban Aboriginal Views.....	58
IV THE CHALLENGE OF ENGAGING YOUTH IN GOVERNANCE	59
A. SOCIO-DEMOGRAPHIC OVERVIEW.....	59
B. ORGANIZATIONAL AND ACCOUNTABILITY ISSUES.....	63
1. Current Organizational Forms.....	64
2. Principles of Organizational Attraction.....	65
V RE-FASHIONING THE DIALOGUE	67
A. AGREEING ON FUNDAMENTALS.....	67
B. ENGAGING YOUTH.....	67
ENDNOTES	70
 ANNEXES	
I. Annotated Bibliography.....	75
II. Urban Youth Program Documentation and Survey Analysis.....	99
III. Focus Circle Results.....	125

TABLE OF CONTENTS

1	THE CONSTITUTIONAL FRAMEWORK
2	THE PRINCIPLES OF FEDERALISM
3	THE DIVISION OF POWERS
4	THE JUDICIAL REVIEW
5	THE BILL OF RIGHTS
6	THE CHARTER OF FUNDAMENTAL FREEDOMS
7	THE CANADIAN BILL OF RIGHTS
8	THE CANADIAN BILL OF RIGHTS AND THE CHARTER
9	THE CHARTER AND THE BILL OF RIGHTS
10	THE CHARTER AND THE BILL OF RIGHTS
11	THE CHARTER AND THE BILL OF RIGHTS
12	THE CHARTER AND THE BILL OF RIGHTS
13	THE CHARTER AND THE BILL OF RIGHTS
14	THE CHARTER AND THE BILL OF RIGHTS
15	THE CHARTER AND THE BILL OF RIGHTS
16	THE CHARTER AND THE BILL OF RIGHTS
17	THE CHARTER AND THE BILL OF RIGHTS
18	THE CHARTER AND THE BILL OF RIGHTS
19	THE CHARTER AND THE BILL OF RIGHTS
20	THE CHARTER AND THE BILL OF RIGHTS
21	THE CHARTER AND THE BILL OF RIGHTS
22	THE CHARTER AND THE BILL OF RIGHTS
23	THE CHARTER AND THE BILL OF RIGHTS
24	THE CHARTER AND THE BILL OF RIGHTS
25	THE CHARTER AND THE BILL OF RIGHTS
26	THE CHARTER AND THE BILL OF RIGHTS
27	THE CHARTER AND THE BILL OF RIGHTS
28	THE CHARTER AND THE BILL OF RIGHTS
29	THE CHARTER AND THE BILL OF RIGHTS
30	THE CHARTER AND THE BILL OF RIGHTS
31	THE CHARTER AND THE BILL OF RIGHTS
32	THE CHARTER AND THE BILL OF RIGHTS
33	THE CHARTER AND THE BILL OF RIGHTS
34	THE CHARTER AND THE BILL OF RIGHTS
35	THE CHARTER AND THE BILL OF RIGHTS
36	THE CHARTER AND THE BILL OF RIGHTS
37	THE CHARTER AND THE BILL OF RIGHTS
38	THE CHARTER AND THE BILL OF RIGHTS
39	THE CHARTER AND THE BILL OF RIGHTS
40	THE CHARTER AND THE BILL OF RIGHTS
41	THE CHARTER AND THE BILL OF RIGHTS
42	THE CHARTER AND THE BILL OF RIGHTS
43	THE CHARTER AND THE BILL OF RIGHTS
44	THE CHARTER AND THE BILL OF RIGHTS
45	THE CHARTER AND THE BILL OF RIGHTS
46	THE CHARTER AND THE BILL OF RIGHTS
47	THE CHARTER AND THE BILL OF RIGHTS
48	THE CHARTER AND THE BILL OF RIGHTS
49	THE CHARTER AND THE BILL OF RIGHTS
50	THE CHARTER AND THE BILL OF RIGHTS
51	THE CHARTER AND THE BILL OF RIGHTS
52	THE CHARTER AND THE BILL OF RIGHTS
53	THE CHARTER AND THE BILL OF RIGHTS
54	THE CHARTER AND THE BILL OF RIGHTS
55	THE CHARTER AND THE BILL OF RIGHTS
56	THE CHARTER AND THE BILL OF RIGHTS
57	THE CHARTER AND THE BILL OF RIGHTS
58	THE CHARTER AND THE BILL OF RIGHTS
59	THE CHARTER AND THE BILL OF RIGHTS
60	THE CHARTER AND THE BILL OF RIGHTS
61	THE CHARTER AND THE BILL OF RIGHTS
62	THE CHARTER AND THE BILL OF RIGHTS
63	THE CHARTER AND THE BILL OF RIGHTS
64	THE CHARTER AND THE BILL OF RIGHTS
65	THE CHARTER AND THE BILL OF RIGHTS
66	THE CHARTER AND THE BILL OF RIGHTS
67	THE CHARTER AND THE BILL OF RIGHTS
68	THE CHARTER AND THE BILL OF RIGHTS
69	THE CHARTER AND THE BILL OF RIGHTS
70	THE CHARTER AND THE BILL OF RIGHTS
71	THE CHARTER AND THE BILL OF RIGHTS
72	THE CHARTER AND THE BILL OF RIGHTS
73	THE CHARTER AND THE BILL OF RIGHTS
74	THE CHARTER AND THE BILL OF RIGHTS
75	THE CHARTER AND THE BILL OF RIGHTS
76	THE CHARTER AND THE BILL OF RIGHTS
77	THE CHARTER AND THE BILL OF RIGHTS
78	THE CHARTER AND THE BILL OF RIGHTS
79	THE CHARTER AND THE BILL OF RIGHTS
80	THE CHARTER AND THE BILL OF RIGHTS
81	THE CHARTER AND THE BILL OF RIGHTS
82	THE CHARTER AND THE BILL OF RIGHTS
83	THE CHARTER AND THE BILL OF RIGHTS
84	THE CHARTER AND THE BILL OF RIGHTS
85	THE CHARTER AND THE BILL OF RIGHTS
86	THE CHARTER AND THE BILL OF RIGHTS
87	THE CHARTER AND THE BILL OF RIGHTS
88	THE CHARTER AND THE BILL OF RIGHTS
89	THE CHARTER AND THE BILL OF RIGHTS
90	THE CHARTER AND THE BILL OF RIGHTS
91	THE CHARTER AND THE BILL OF RIGHTS
92	THE CHARTER AND THE BILL OF RIGHTS
93	THE CHARTER AND THE BILL OF RIGHTS
94	THE CHARTER AND THE BILL OF RIGHTS
95	THE CHARTER AND THE BILL OF RIGHTS
96	THE CHARTER AND THE BILL OF RIGHTS
97	THE CHARTER AND THE BILL OF RIGHTS
98	THE CHARTER AND THE BILL OF RIGHTS
99	THE CHARTER AND THE BILL OF RIGHTS
100	THE CHARTER AND THE BILL OF RIGHTS



I SETTING THE STAGE FOR DIALOGUE

A. INTRODUCTION

The Law Commission of Canada and the National Association of Friendship Centers are undertaking a joint effort to re-assess approaches to urban Aboriginal governance, to probe the relevance of these approaches to the needs of Aboriginal youth, who now comprise over 50% of the Aboriginal population within urban areas, and to engage urban Aboriginal communities and other stakeholders in direct initiatives on governance.

Our effort is prompted by a concern to provide an open and transparent platform for dialogue within Aboriginal communities and amongst Canadians generally on the challenges of self-government for Aboriginal peoples residing in urban areas. Interest in this topic has been steadily growing, as indicated in round-tables, conferences and the work of the Royal Commission on Aboriginal Peoples over the past five years.¹ Yet it is self-government in connection with rural, reserve and remote land-based and majority Aboriginal communities that has received most political and financial focus in governmental, Aboriginal and academic circles. Momentum towards reaching a consensus on Aboriginal governance in urban centres has been far less evident.²

There appears to be a reluctance on the part of important participants – both governmental and Aboriginal – to directly engage in policy debate and development in this arena. This ambivalence has declined somewhat, but is still evident, since the Royal Commission on Aboriginal Peoples released its final report, in which specific attention was provided self-government in urban settings.³ We therefore regard it as timely that we are able to share our thoughts and suggestions for further dialogue and action in the wake of both the 1996 report of the Royal Commission and the government's January, 1998 response, *Gathering Strength: Canada's Action Plan for Aboriginal Peoples*.

Our goal is to contribute to a principled dialogue on urban Aboriginal governance by asking participants to consider both the normative and the practical arguments for implementing governance, and by prompting an open deliberation on real and perceived obstacles. In carrying out this re-assessment, we also make an initial effort to focus on the unique challenge of engaging Aboriginal youth in urban governance. This dimension of the issue has seldom been afforded academic or policy attention. Such a focus may provide an opportunity to re-balance the attention of stakeholders away from issues that are prone to being polarized and towards a more common frame of reference shared by all: Aboriginal youth and the essential role they have in the revival, re-creation and continuance of Aboriginal societies within Canada.



B. THE DEMOGRAPHIC CONTEXT

The demographic context of urban Aboriginal governance has been the subject of limited in-depth attention. As Evelyn Peters has noted in a study for a major national conference on urban governance held in 1994, there are great limitations to which published statistics, based as they are on provincial and municipal boundaries, can be used in mapping the political geographies of Aboriginal governance of relevance to urban issues.⁴

The 1991 Census disclosed considerable variation in the characteristics of Aboriginal populations in different metropolitan areas, suggesting the need for flexibility in the design of self-government approaches. The following tables highlight two factors: variations in the size of Aboriginal urban populations and the variation of that population by identity group.

TABLE 1.1
Residence of Aboriginal Identity Population 1991

	<i>Registered</i>		<i>Non-Registered</i>		
	<i>Total</i>	<i>North American</i>	<i>North American</i>		
	<i>Aboriginal</i>	<i>Indian</i>	<i>Indian</i>	<i>Métis</i>	<i>Inuit</i>
Total	625,710	351,590	104,260	135,260	35,215
On Reserve*	29.3%	49.4%	3.5%	3.4%	1.7%
Urban	49.5%	40.9%	69.3%	64.9%	21.9%

Source: Based on Peters, 1995, p.4. "Registered" means having confirmed status under the Indian Act. "Métis", "Inuit" and "North American Indian" means self-identified as a member of one of those peoples, regardless of status under federal or (in the case of Métis in Alberta) provincial legislation.

* Does not include an estimated 58,000 persons residing on un-emunerated reserves or settlements

TABLE 1.2
Cultural Origins, Registration and Band Membership, Aboriginal Identity Population, Major Metropolitan Areas, 1991

<i>Metro Area</i>	<i>Aboriginal Identity Population</i>	<i>Percent of Identity Population</i>			
		<i>North American Indian</i>	<i>Métis</i>	<i>Registered</i>	<i>Band Member</i>
Halifax	1,185	95.8	—	67.5	62.9
Montreal	6,775	79.7	24.7	56.6	47.6
Ottawa-Hull	6,915	75.1	20.6	55.0	38.7
Toronto	14,205	90.9	5.6	38.3	33.5
Winnipeg	35,150	57.6	21.3	44.6	39.3
Regina	11,020	66.2	33.8	60.2	53.0
Saskatoon	11,920	53.5	46.9	53.4	47.1
Calgary	14,075	70.1	30.4	39.9	36.3
Edmonton	29,235	54.4	46.2	40.1	34.8
Vancouver	25,030	87.3	16.3	48.9	42.6
Victoria	4,435	93.1	7.8	83.4	73.6

Source: Based on Peters, 1995, p. 9.

In addition, Peters examined data based on the 1991 post-census survey of Aboriginal identity population that explored social conditions of urban Aboriginal people, as well as a comparative organizational survey of Edmonton, Toronto and Winnipeg conducted in 1993. In commenting on these findings, Peters concluded with three observations:

1. the geographies of Aboriginal self-government do not match the political boundaries of non-Aboriginal government such that "approaches to self-government for Aboriginal people in urban areas must incorporate considerable flexibility";
2. the tremendous variation between municipal areas in relation to such characteristics as mobility, association with traditional territories, languages and activities, Aboriginal population size and identity merits consideration of different approaches not only between but also within metropolitan areas, and;
3. the urban Aboriginal population is characterized by marked poverty, high dependency ratios and low labour-market participation and employment rates that demand a policy response, but given variations in social conditions between municipal areas, priorities may vary between short and mid-term remedial action to address immediate dependency and social dislocation, and longer term planning for re-tooling the social and economic capacities of urban Aboriginal populations.

1996 Census data only report self-identifying Aboriginal persons grouped into three categories: North American Indian, Métis and Inuit and no post census survey was conducted in 1996. Information on more refined identities are therefore unavailable for comparison with the 1991 data. Comparisons between 1991 and 1996 Census data on such matters as changes in poverty levels or mobility among and between groups are also not possible below the most general level of identity. As part of an on-going research project by the NAFC, special tabulations are being run on the 1996 census data, including specific information on the youth population, such as poverty data, drawn from the 116 urban areas in which Friendship Centres are located. While not yet complete, preliminary findings of this data analysis are reported below.

TABLE 1.3

Total Self-Identifying Aboriginal Population, 1996

	<i>North American Indian</i>	<i>Métis</i>	<i>Inuit</i>	Total
Newfoundland/Labrador	5,255	4,685	4,265	14,205
Prince Edward Island	825	120	15	960
Nova Scotia	11,340	860	210	12,410
New Brunswick	9,180	975	120	10,275
Quebec	47,600	16,075	8,300	71,975
Ontario	118,830	22,790	1,300	142,920
Manitoba	82,990	46,195	360	129,545
Saskatchewan	75,205	36,535	190	111,930
Alberta	72,645	50,745	795	124,185
British Columbia	113,315	26,750	815	140,880
Yukon Territory	5,530	565	110	6,205
Northwest Territories	11,400	3,895	24,600	39,895
TOTAL	584,290	210,190	41,080	805,560

Source: Statistics Canada, 1996 Census



TABLE I.4
Top 7 CMA Aboriginal Self-Identifying Population, 1996

	<i>Total CMA Population</i>	<i>Aboriginal CMA Population</i>	<i>Aboriginal as % of Total CMA Population</i>
Toronto	4,232,905	16,100	0.4
Winnipeg	660,055	45,750	6.9
Regina	191,480	13,605	7.1
Saskatoon	216,445	16,160	7.5
Calgary	815,985	15,200	1.9
Edmonton	854,230	32,825	3.8
Vancouver	1,813,935	31,140	1.7
TOTAL	8,785,035	170,780	1.9

Source: Statistics Canada, 1996 Census. "CMA" refers to census metropolitan areas, such as greater Toronto, rather than to more discrete municipal government boundaries.

Census data analysis now underway by the national Association of Friendship Centres also permit a focus to be placed on the 116 urban settings in which there are active Friendship Centres, reported in summary form here and in greater detail in Part IV.

TABLE I.5
Youth in Friendship Centre Urban Areas, 1996

	<i>Total Urban Aboriginal Population</i>	<i>Total Aboriginal Youth (0-25)</i>	<i>Youth as % of Total Urban Aboriginal</i>
Newfoundland	3,405	1,680	49.3
Nova Scotia	2,115	865	40.9
New Brunswick	490	200	40.8
Quebec	13,525	5,255	38.9
Ontario	71,275	33,370	46.8
Manitoba	55,440	30,035	54.2
Saskatchewan	49,330	28,815	58.4
Alberta	67,640	35,975	53.2
B.C.	71,905	35,225	49.0

Source: Statistics Canada, 1996 Census; special tabulation. Urban figures are based on census data from 116 urban areas served by Friendship Centres, excluding Yukon and N.W.T. due to lack of discrete urban data.



TABLE I.6
Top 7 Cities: Aboriginal Youth & Poverty, 1996

	<i>Non-Aboriginal Youth Percentage Poor</i>	<i>Aboriginal Youth Percentage Poor</i>
Toronto	36.6	55.0
Winnipeg	25.4	70.5
Regina	19.2	70.5
Saskatoon	25.5	71.7
Calgary	24.5	61.6
Edmonton	31.0	68.6
Vancouver	37.3	73.4

Source: Statistics Canada, 1996 Census; special tabulation. Note that "urban" is defined differently than "CMA" as in Table I.4 above in that the data are organized by municipal boundary, not by the wider metropolitan areas. Caution should therefore be used in comparisons.

TABLE I.7
Friendship Centre Communities

	<i>% of Aboriginal to Non-Aboriginal Population</i>		
	<i>less than 3%</i>	<i>3 - 6%</i>	<i>more than 6%</i>
Newfoundland/Labrador	1		1
Nova Scotia	1		
New Brunswick	1		
Quebec	6		
Ontario	12	8	7
Manitoba		1	9
Saskatchewan			11
Alberta	2	6	11
British Columbia	3	9	17
Yukon Territory			1
Northwest Territories			8

As illustrated in Table I.7, the majority of Friendship Centres are located in western Canada, and it is also in this region that urban Aboriginal communities are often well more than twice the national average size in relation to the non-Aboriginal population (the average being 3.7%). This trend also reflects the relatively recent immigration of non-Aboriginal peoples into the Prairie regions, B.C. and the North, and the strong association that these urban places have to Aboriginal people as formerly majority Indian or Métis towns and villages, as well as the "pull" of services, educational and employment opportunities and the "push" of poverty, family alienation and local politics in rural and reserve areas.



TABLE I.8
Urban Youth Population in Friendship Centre Serviced Communities

	<i>Total Urban Aboriginal</i>	<i>Urban Youth</i>		<i>Total Urban Youth</i>	<i>Youth as a % of Total Urban Aboriginal</i>
	Population	0- 14	15- 24	Under 25	Population
Nfld/Lab	3,405	965	715	1,680	49.3
N. S.	2,115	510	355	865	40.9
N. B.	480	125	130	255	53.1
Que.	13,525	3,240	2,015	5,255	38.9
Ont.	71,275	20,695	12,675	33,370	46.8
Man.	55,440	19,870	10,165	30,035	54.2
Sask.	49,330	20,395	8,420	28,815	58.4
Alb.	67,640	23,685	12,290	35,975	53.2
B.C.	71,905	22,210	13,015	35,225	49.0
Y.T.	8,670	3,440	1,605	5,045	58.2
N.W.T.	17,995	6,690	3,105	9,795	54.4
Totals	361,780	121,825	64,490	186,315	51.4

TABLE I.9
Variance of Youth Population in Friendship Centre Communities
from Regional Average of Total Aboriginal Population

	<i>No variance</i>	<i>less than 5% more</i>	<i>less than 5% less</i>	<i>within 5 - 10% more</i>	<i>within 5 - 10% less</i>	<i>over 10% more</i>	<i>over 10% less</i>
Nfld/Lab	1		1				
N. S.							1
N.B.		1					
Que			1		3		2
Ont		9	9	2	4	1	2
Man		2	3	3		2	
Sask		3	1	4		2	
Alb		5	4	8		1	1
B.C.	3	11	6	2	4		2
Yukon			1			1	
N.W.T.		4	3	2			

These data yield the following picture:

- ◆ Some urban settings have very high levels of Aboriginal peoples as compared with provincial averages (e.g., over 60 urban settings served by Friendship Centres have Aboriginal populations that exceed the national average by more than 100%).
- ◆ There is considerable variation in the youth population within urban settings, even within regions and between otherwise similar types of urban settings. For example, Cochrane, Ontario has over 10% more Aboriginal youth present than the provincial urban average, while Kapuskasing has almost 10% fewer urban youth than the provincial average. Similarly, Athabasca has over 10% more urban youth than the Alberta average, while Cold Lake has more than 10% less than the average. These variations may suggest that certain types of services, urban infrastructure and Aboriginal organization are more attractive and useful to Aboriginal youth or their (often single) parents than others.
- ◆ Many large urban settings outside of the Prairies - such as Toronto, Vancouver and Halifax - disclose atypically low Aboriginal youth populations, while Prairie cities such as Winnipeg, Regina, Calgary and Edmonton have youth populations that are within 5% of the provincial average, suggesting more stable urban Aboriginal communities.

Overall, the 1996 data, in comparison with 1991 statistics, illustrate the following realities:

1. There is a steady increase in the urban Aboriginal population (now over 50% of the total Aboriginal population);
2. Growth of the youth population is high (at 53% under 25) and there are very high predicted fertility rates (at 70% higher than average) such that youth under 14 will continue to grow at very high levels and youth over 15, seeking employment and higher education, will also grow at very high levels over the next decade, and;
3. There are very significant levels of urban youth who are poor as defined by standard Census income data, with levels of urban dependency and poverty running at 2-3 times the national average for urban youth. Fully 46% of Aboriginal youth in metropolitan areas are under the age of 15 and are in single-parent families.

Old Homes, New Mobility

Recent demographics tend to down-play the long-term association of Aboriginal peoples with contemporary urban centres. Almost all cities in Canada are built on the sites of pre-existing Aboriginal settlements. In some, such as in Vancouver or Fredericton, Aboriginal communities were incorporated as enclaves by the immigrant population, with the result that the larger urban area contains both on and non-reserve local Aboriginal communities. In others, such as Montreal and Sault St. Marie, colonial centres were established adjacent to Aboriginal villages or towns, which were initially regarded as essential complements to European settlement for economic and military security, and only later regarded as irritants to be isolated or removed to make way for increased European settlement.⁶ In cities like Edmonton, Calgary and Winnipeg, Indian or Métis communities were initially re-located to more distant reserve settings or allotments, or simply pushed further west and north. Viewed in this light, it is not surprising that many of Canada's urban centres are regarded by Aboriginal people as Indian or Métis towns with a significant immigrant problem.

More typically understood is the recent wave of Aboriginal mobility, in which the economic and social pull of urban institutions draws Aboriginal people from a wide variety of backgrounds for services, education and employment. This phenomenon is not only seen in large urban centres, but also in smaller cities and towns such as Prince George, Thompson, Sudbury and Val d'Or, formerly single-industry boom towns now becoming administrative centres for a wide range of services required by Aboriginal and non-Aboriginal peoples alike. However, recent trends of mobility must be understood as only part of the picture. The long-term association of Aboriginal peoples with urban spaces - Aboriginal places - is also essential to building consensus in the debate over how to better establish urban Aboriginal governance.

C. LINES OF DEBATE

Public perceptions, and public policy positions, are still largely underwritten by a view that urban Aboriginal communities are somehow anomalous, even out of place. Part of the reason for this may have to do with lingering stereotypes of Aboriginal peoples as "pre-modern". It may also be related to the fact, alluded to in the introduction to this paper, that reform initiatives have largely focused on rural, reserve and remote land-based and majority Aboriginal communities at the expense of urban Aboriginal communities. The phenomenon of recent mobility is also likely to lessen the appreciation of the often very long term association of Aboriginal peoples with the places that we now categorize as urban. Tied to this sense of anomaly is a response to demands for Aboriginal governance in urban areas that is often confused, sometimes hostile, and characterized above all by avoidance.

For a number of reasons that have rarely been publicly or openly discussed, proposals for urban self-government have polarized opinion. To summarize what is a complex set of considerations and views, there appear to be four broad lines of debate on which opinions range.

1. Urban Aboriginal People as Voluntary Immigrants

A first line of reasoning regards urban Aboriginal populations as in no different a relationship to the wider institutional and political governance of urban Canada as any immigrant racial or ethnic minority. This view is often accompanied by a presumption that Aboriginal peoples are essentially "volunteer migrants" to the urban milieu and thus, to be "self-governing", they should "return" to presumptive areas of natural Aboriginal residence or governance, such as on reserves or in rural or remote settlements.

This broad categorization of Aboriginal people as immigrants may be driven by a territorial conception of how people and governance should be organized, in which authority over any particular topic is seen as most properly inclusive of all people within a defined area. While there are, of course, a variety of non-territorial forms of governance in operation in Canada, such as denominational or linguistic community control over schools, approaches that appear to utilize race or ethnicity as a basis for decision-making tend to arouse particular opposition, often expressed as a defence of such norms as individual equality, democracy, and majority rule.

2. The Right of Self-Government within Urban Settings

A second line of debate is marked by the growing assertion by Aboriginal people generally, including urban Aboriginal leaders and community activists, that self-government is not a matter of discretionary dispensation by federal or provincial authorities, but instead has the normative force of a right in law (NAFC, 1993; Helgason, 1996). This general assertion has found some solace in governmental policy, such as the 1995 federal announcement accepting self-government as an inherent right recognized and affirmed by the Constitution, in the recommendations of the Royal Commission, and as well in the emerging case law on Aboriginal rights as demanding a broad reconciliation between the pre-existence of Aboriginal peoples and, with the arrival of settlers, the rights and prerogatives of the Crown's sovereignty.⁷

3. Urban Self-Government as "Un-Aboriginal"

A third dimension of the debate, less well documented in formal positions, has emerged from what may initially seem a surprising source: Aboriginal leaders of communities based outside of urban areas. For some land-based Aboriginal communities, the situation of urban Aboriginal people may be perceived as both anomalous and potentially threatening. With often small and fragmented institutional capacities, at least some and perhaps many rural and reserve Aboriginal communities see urban areas as draining their human capital and accelerating an already well-entrenched assimilation process that threatens traditional values, languages and cultures. Governmental responses to urban Aboriginal needs, together with urban Aboriginal demands for greater resources and autonomy in decision-making, may heighten a sense of competitiveness, and even conflict.



On this same dimension of opinion, and reflecting its urban complement, is the concern of Aboriginal urban residents that the emergence of urban self-government, or even governance initiatives of a more modest nature, may threaten their own connection to collective identities, rights or entitlements that are operationally tied to non-urban communities. There are concerns within the urban Aboriginal community about a loss of rights or entitlements in their Nations of origin that might be suffered should they form into distinct governing authorities, even for fairly limited purposes. This reaction may be driven by the weight of imposed governance models such as the Indian Act, where both identity and rights have become increasingly tied to membership in a specific First Nation community and residence on reserves. However, this concern does not appear to be limited to First Nation's or Indian people, but also extends to Métis and to Inuit living in urban areas outside of what are by convention or law deemed to be their Nation's traditional territories.⁸

4. Assigning Responsibilities

A final main line of debate involves that classic Canadian pre-occupation over "who is responsible", and in particular whether and to what extent urban Aboriginal self-government can or should be seen as a largely provincial responsibility, or whether the federal government bears the lead role or obligation to assist in its implementation, and provide resources to defray its costs. There are many variations to this dimension of the debate. Municipal leaders may feel that they have a fairly limited capacity to meet Aboriginal governance interests or rights. There is a sense in many provincial capitals that initiatives beyond remedial social programs, including promotive efforts for Aboriginal governance, fall outside of provincial jurisdiction. Finally, there is the generalized governmental stance, commonly encountered in all self-government settings, to avoid action until a broader framework for assigning financial obligations is set in place, a stance that has, however, yet to be matched by a focused plan amongst governments and Aboriginal leaders to develop such a framework.

There are, of course, other lines of debate, including those attempting to balance demands based on "justice" with concerns about "practicality". Some would reject or oppose self-government measures solely on grounds of perceived cost. Countering such opinion would be those who regard the accommodation of Aboriginal governance needs in urban settings, as elsewhere, as both reasonable and essential to the challenge of reversing the damage, and cost, of over a century of dependency and dislocation.

D. A NORMATIVE RE-ASSESSMENT

In examining urban Aboriginal governance, the NAFC and LCC start with a value judgment: that it is essential to give meaning and purpose to the larger challenge of reconciliation that both the Courts and the Royal Commission have laid down. This normative grounding flows from an acknowledgment of demographic realities, an acceptance of the long and often pre-contact association of

Aboriginal peoples to places now characterized as urban by non-Aboriginal majorities, and out of the need to enlist the urban Aboriginal population in the nation-wide effort at reconciliation, rather than stigmatize them as by-standers in that cause.

Our approach is to examine proposals for urban self-government, as well as the grounds for opposition that have emerged, through the lenses of different normative frameworks. In this, we advance legal pluralism as an aid to both analysis and reconciliation. Neither Aboriginal rights law, nor the more familiar tenets of Canadian common, civil or statute law, are adequate in their own right to understand the basis for and nature of reconciliation.

The first major normative perspective, articulated in contemporary Aboriginal rights jurisprudence, stresses the collective nature of Aboriginal peoples, and more importantly, the collective status of Aboriginal rights, including that of self-government. It also calls for what the Supreme Court of Canada has termed a reconciliation between imported legal traditions of Britain and France and the general principles of Canadian federalism, on the one hand, with the pre-existence of Aboriginal societies, including Aboriginal legal traditions, on the other. This framework is most clearly demarcated in the findings and recommendations of the Royal Commission, on whose comprehensive and path-breaking work we largely draw to explicate this normative frame of reference.

A second normative framework, stressing individual rights and freedoms, is that of democratic liberalism and its response to the emergence of demands for protective, representational and governance measures to meet the challenges of nationalism and, more typically, minority rights. An area of growing academic focus in Canada and elsewhere in addressing the resurgence of ethno-nationalism, the broad tradition of philosophy, law and policy surrounding democracy and liberalism is of particular importance in understanding, and accommodating, non-Aboriginal concerns about self-government.⁹

Aboriginal rights law poses a unique set of normative principles and philosophical departures for addressing the contemporary expression of collective rights where pre-existing and settler societies are to co-exist within a common state. In contrast, viewing the question of urban self-government from the vantage of democratic liberalism brings to bear other considerations of how national, ethnic and other minority interest accommodations may be supported or justified in Canada. Part II sets out these two broad normative frameworks in order to explore the key issues they give rise to for considering any range of options to implement urban Aboriginal governance.¹⁰

E. ASSESSING OPTIONS: NORMS, PRAGMATICS & PREFERENCES

In Part III we subject the basic models advanced to date for urban governance to an assessment involving three steps. We first review the self-government models commonly suggested in the two dominant normative frameworks of Aboriginal rights law and democratic liberalism. Secondly, we draw upon our field research – conducted



through surveys, in focus circles carried out across Canada, and in a review of documentation on urban initiatives to date – in order to assess issues of practicality that are commonly raised in relation to urban governance. Finally, we report on the perceptions of urban Aboriginal people themselves, and particularly the youth who participated in our focus circles held across Canada in late 1998 (see Annex 3), as to their own sense of priorities and preferences for the nature and form that urban governance should take.

F. ENGAGING YOUTH

The re-assessment of often vigorously contested options, principles and preferences can advance dialogue where tangible interests, common to all sides, are enlisted in order to engage a purposive debate that can achieve a consensus on action. It would seem clear to us that Aboriginal youth can and do trigger such a broadly shared interest. Added to their demographic weight within the Aboriginal population, and their large relative size in contrast to non-Aboriginal youth (at 51%, compared to 31%), is the simple reality that today's youth are the main repository of hope for the renewal of Aboriginal societies and cultures, many of which are desperately fragmented and some of which are on the verge of extinction. As the fastest growing segment of any population in Canada, Aboriginal youth are also demanding a reasoned and reasonable say in the determination of their own futures. This demand offers the opportunity to consider new and possibly novel approaches to urban Aboriginal governance, particularly if governance is to hold relevance and legitimacy in the eyes of tomorrow's leadership.

It is hoped that a new paradigm for reconciliation may emerge by focusing on how to engage Aboriginal youth in sustained, community-based structures that support their needs and represent their interests, both within the wider Aboriginal and with non-Aboriginal communities in Canada's urban centres.

II NORMATIVE GROUNDS FOR RE-ASSESSMENT

A. ABORIGINAL RIGHTS: EXPRESSIONS OF POLICY AND LAW

The Aboriginal rights framework reflects a set of norms, principles and guiding values that has, in many respects, only recently been seen to have distinctive weight and internal discipline. This framework nevertheless reflects an ancient history and builds on developments in law, philosophy and politics from the formative years of contact between European and Aboriginal peoples in the Americas, as reflected in the very earliest efforts to develop international legal norms.¹¹ As such this perspective brings a focus to bear on both some of the oldest, as well as some of the most recently emergent, considerations regarding the accommodation of social and legal pluralism. Nor is the challenge of accommodation or reconciliation a new one, with the earliest efforts at determining solutions to the “Indian problem” dating from only two decades after the initial Spanish “discovery” of the Americas, a response repeated at regular intervals ever since.¹²

In canvassing this perspective, three sources assist in framing a dialogue on urban Aboriginal self-government:

- ◆ section 35 of the Constitution Act, 1982, as interpreted by the courts and as reflected in constitutional negotiations up to 1992;
- ◆ the recommendations of the Royal Commission on Aboriginal Peoples, and;
- ◆ federal policy and practice in relation to self-government.

1. Section 35

Part II of The *Constitution Act, 1982*, at section 35(1), recognizes and affirms “the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada”, and goes on to define the latter to include “the Indian, Inuit and Métis peoples of Canada”. This part of the Constitution is distinct from the Canadian Charter of Rights and Freedoms (the Charter) and is not therefore subject to the latter’s “reasonable limits” clause (in section 1). Section 25 of the Charter also provides that the rights and freedoms guaranteed in the Charter are not to be construed so as to “abrogate or derogate from any Aboriginal, treaty or other rights or freedoms that pertain to the Aboriginal peoples of Canada”, including those referred to in the Royal Proclamation of 1763.

Part II emerged out of a process of representation and negotiation between federal Parliamentarians and three national Aboriginal organizations representing Indians (status and non-status), Métis and Inuit. In its first major assessment of s. 35 rights (in *R. v. Sparrow*), the Supreme Court described this process as:

... the culmination of a long and difficult struggle in both the political forum and the courts for the constitutional recognition of Aboriginal rights. The strong representations of native associations and other groups concerned with the welfare of Canada's Aboriginal peoples made the adoption of s. 35(1) possible and it is important to note that the provision applies to the Indians, the Inuit and the Métis. Section 35(1), at the least, provides a solid constitutional base upon which subsequent



negotiations can take place. It also affords Aboriginal peoples constitutional protection against provincial legislative power.

This view by the Supreme Court is important to consider, since it acknowledges the reality that section 35, as drafted in 1981, was an un-finished work intended to set a framework for subsequent constitutional or treaty-based negotiation and amendment. Unlike the Charter, which identifies with some precision a wide array of particular rights and freedoms, as well as conditions for legislative over-ride, section 35 was and remains a purposive head-note for a part of the Constitution slated for priority change, with the fall-back being to leave the identification and interpretation of Aboriginal rights to the creativity of the Courts. As a result, the Supreme Court was, at least in its early rulings, keen to avoid the kind of broad-scoped decisions common to Charter law. It is only in more recent cases - heard and ruled on after the failure of constitutional reform efforts in the late 1980's, that the Supreme Court has taken a slightly more determinative, and controversial, approach to interpreting section 35.

Before examining the Court's interpretive framework, it is useful to recall the directions emerging out of the five rounds of First Ministers' and Aboriginal Leaders meetings held from 1983 to 1992, since these efforts were clearly aimed at coming to grips with how to implement Aboriginal rights, and self-government was established early on as the dominant focus. Throughout those conferences, the issue of urban Aboriginal peoples was set out as requiring distinct and equitable accommodation. In the most recent effort, the only case where a major reform package attracted the support of all governments and national Aboriginal groups¹³, specific provisions guaranteeing "equitable access" to the right of self-government for all Aboriginal peoples were agreed to. While the national organizations involved in negotiations surrounding the *Charlottetown Accord* took a public stance asserting the application of the Accord's provisions to the urban context, it is difficult to draw definitive conclusions. The generality of the agreement laid out in the *Charlottetown Accord* and the reliance placed on subsequent political negotiations, along with the appearance in the Accord of modifying clauses, makes the task of interpretation about the scope of application a subtle one, as amplified in the main legal text provisions agreed to:

- 35.1(1) *The Aboriginal peoples of Canada have the inherent right of self-government within Canada.*
- (2) *The right referred to in subsection (1) shall be interpreted in a manner consistent with the recognition of the governments of the Aboriginal peoples of Canada as constituting one of three orders of government in Canada.*
- (3) *The exercise of the right referred to in subsection (1) includes the authority of duly constituted legislative bodies of the Aboriginal peoples, each within its own jurisdiction,*
 - (a) *to safeguard and develop their languages, cultures, economies, identities, institutions and traditions, and*
 - (b) *to develop, maintain and strengthen their relationship with their lands, waters and environment,*

so as to determine and control their development as peoples according to their own values and priorities and to ensure the integrity of their societies.¹⁴



What is to be gleaned from the inter-governmental consensus that was achieved in 1992? Does it clearly and unambiguously extend to the multi-faceted nature of urban Aboriginal existence? Any answer, if one is required, would appear in need of qualification. First, it is obvious that a consensus was reached, at least amongst governments and Aboriginal groups at the national level. That consensus embraced such principles as equitable access, which was clearly aimed at breaking down imposed barriers established in legislation like the Indian Act, which may arbitrarily distinguish First Nations' people on the basis of status and residence and which has, in the past, been interpreted in a manner that fosters the assimilation of Aboriginal peoples rather than their accommodation.

Secondly, constitutional negotiations did not, and perhaps by their very nature could not, grapple with specific issues and contexts, whether urban, rural or remote areas. Yet the broad principles agreed to during the Charlottetown Accord negotiations did clearly establish a framework for communal take-up of the inherent right. In particular, the Accord's legal text called for Aboriginal governments, where duly constituted, to have sway in connection with "languages, cultures, economies, identities, institutions and traditions", and to "develop, maintain and strengthen their relationship with their lands, waters and environment" so as to "determine and control their development as peoples according to their own values and priorities and to ensure the integrity of their societies". While those involved in the negotiations might have intended the right of self-government to apply to all Aboriginal peoples, wherever they live in communities, the Accord's text, on its own, would seem to point rather more clearly in the direction of all communities having to have some basic cultural, social and institutional traditions around which to organize and express a constitutional right of governance.

The collapse of efforts to elaborate on section 35 through constitutional negotiation has given way, particularly since 1995, to judicial consideration of section 35's meaning. The Supreme Court of Canada has laid out a series of rulings on section 35, beginning in the mid-1980's and culminating in its most recent decision, in the *Delgamuukw* case, in late 1997.¹⁵ The Supreme Court has yet to provide a jurisdictional framework regarding self-government (which has, as a right, been defined by the court as necessarily subject-specific¹⁶). It is also important to understand that the Supreme Court has to date entirely focused on setting out rules for the establishment of when section 35 rights "exist", and under what circumstances infringements on rights can be justified. The Court has not ruled on the substance of any particular right of self-government. Nor has it provided a framework for determining how the exercise of a self-government right, if upheld, can or will be ruled on when it conflicts with otherwise valid federal or provincial legislation.¹⁷ Nevertheless, the Court has laid down evidentiary tests that any claimed right of self-government must meet to achieve acceptance. This in itself gives us some capacity to determine



whether any potential urban self-government claim might be able to meet the first main hurdle of an asserted right: that it exists for a particular Aboriginal group, for a particular subject matter, in a particular place.

Imposing a fully integrated logic on the various rulings of the Supreme Court is a challenge that many commentators have struggled with, and is beyond our requirements. However, the following principles appear consistent with the Court's general approach:

1. Section 35 rights are exercised by individuals, families and groups, but held by broader collectivities showing continuity from pre-contact societies and/or those exercising occupancy at sovereignty. The determination of rights-bearing collectivities is a matter of fact to be determined at trial or in negotiation between all concerned, not a matter for unilateral definition by the Crown (e.g. such as through the Indian Act).
2. Aboriginal law, together with the common law, must be taken into account in determining the nature of rights, as well as such matters as entitlements to rights. Both treaty and title lands, on or off-reserves, may be equally subject to Aboriginal law tenures;
3. There are several types of rights protected and affirmed under section 35, ranging on a continuum from specific rights to carry out certain practices, customs or traditions (e.g., harvesting rights, spiritual practices, the education of youth, etc.) that may or may not be tied to specific sites, to Aboriginal title, which has been given a very broad definition as the right to determine the use of title-based lands for any purpose consistent with the continuing relationship of the people concerned to that land. Moreover, all matters that are integral to the identity or "Aboriginality" of any of the three Aboriginal peoples fall within section 35;¹⁸
4. The federal Crown is uniquely empowered by s.91(24) to regulate s.35 rights, subject to fiduciary obligations and tests relating to valid infringement. Provinces, while also having to justify infringements of s.35 rights, do not have an inherent capacity to directly regulate or legislate in relation to section 35 rights, and;
5. The Crown, and in particular the federal Crown, is bound by both broad and specific fiduciary obligations to Aboriginal peoples.¹⁹

From this synopsis of the Court's approach to section 35, two conclusions appear safe. First, the specific context of a claimed right under section 35 will be the most important consideration in determining its application, whether an Aboriginal community can engage in a particular custom, practice or tradition without infringement from provincial or federal laws, exercise decisions about the use of lands, or control aspects of life integral to Aboriginal identities, such as education. There would appear to be

no logical reason to bar the application of such rights in an urban setting, though obviously the exercise of Aboriginal title rights to broad-ranging control over lands in un-ceded areas within urban settings will likely prove quite complicated. Moreover, if an Aboriginal group can establish that its activities or governance actions are crucially important to the maintenance of distinctive Aboriginal identities, this will likely be upheld as appropriate, whether in an urban area or not.

Secondly, the primary consideration of the Supreme Court to date has been with a “classic” case where Aboriginal harvesting, land use or social practices and traditions are being carried out in reserve, remote or rural settings and the Aboriginal group concerned has “natural” ties of affinity, most usually characterized in terms of language or culture and common social history, as well as basic continuity from pre-sovereignty social formations. The case of Aboriginal groups characterized by post-contact pressures (wars, disease, forced relocation, concentration on reserves and expulsions and urban migration) has not been directly assessed.

This summary of the Supreme Court’s approach to Aboriginal rights cannot be taken to imply that Aboriginal groups or communities residing in urban areas fall outside section 35. The fact that over 50% of Aboriginal people, including entire communities and significant portions of Aboriginal Nations, live in urban areas, whether together or in conjunction with other Aboriginal people, makes such a conclusion unwarranted and unworkable. Moreover, the Court has not ruled on self-government to date, but only on harvesting activities that are by default carried out in non-urban settings. The Court has refused to make or hear a case for any particular right, including that of self-government, “in the air”, or apart from the specific context and history of its assertion. In this regard it may be noted that quite a few Aboriginal groups or communities in urban areas are no less “from” those settings that their relatives or co-nationals living in non-urban reserves, many of which were, of course, established precisely in order to concentrate Aboriginal peoples away from areas that settlers coveted, and to aid in the policy of assimilation.

Yet, at least on the basis of the contexts the Courts have examined to date, it would seem crucial to a section 35-based assertion of rights that the group (or groups) exercising the right have a common history and shared cultural experience, if not a shared nationality. This would not seem to preclude urban groups pooling several or even diverse nationalities to achieve sufficient capacities, any more than many reserve-based communities are also the product of a merger of distinct national traditions, or represent only fragments of larger common social orders. What it suggests is that a touch-stone to common cultural experience and nationality will be important to attest.

2. The Royal Commission and Urban Self-Government

While urban Aboriginal governance is still in its infancy as a legal or policy topic, it must also be accepted that the report of the Royal Commission on Aboriginal Peoples did undertake, and only

recently, the most significant and comprehensive review of Aboriginal issues generally, and urban Aboriginal issues specifically, in Canada's history. As such the Commission's work provides us with a land-mark synopsis of the normative framework implicit in contemporary Aboriginal rights jurisprudence.

The Royal Commission's final report attempts to provide an understanding of section 35 rights, and at the same time bridge this understanding with the practical need to establish what it regards as the pre-conditions for successful implementation. Like much of the academic literature on the topic, the Royal Commission's report has placed heavy importance on justifying the right of self-government as one that is inherent, or vested in Aboriginal peoples, rather than a goal or principle to be advanced merely on the basis of good public policy and extended at the discretion of the federal and/or provincial governments. The right of self-government is portrayed forcefully as just that: a right that cannot be denied, avoided or subjected to the discretion of others. In making this case, four primary normative arguments are advanced:

- ◆ the prior occupancy of Aboriginal peoples.
- ◆ the acknowledgment in law of the prior sovereignty of Aboriginal societies.
- ◆ the adoption in Canada's constitutional history of rules of consent for the taking up of Aboriginal lands and resources, as reflected in the Royal Proclamation of 1763 and in treaty-making from the early 17th century on.
- ◆ a broad right of self-determination of Aboriginal peoples, based on considerations of international law.

It is not our intention to explore these departure points in any detail. What is of importance is to underscore the normative underpinnings common to all four. In summary, the Royal Commission's approach to establishing a consensus on the right of self-government does not really answer the question of its applicability, or specific expression in different settings. Instead, the Commission has provided a cogent rationale for acceptance of a broad-based entitlement to self-government based on the general principle that European powers or settlers did not, in law, attempt to conquer Aboriginal peoples, but rather sought to establish new societies in Canada on the basis of Aboriginal consent.

Of greater relevance to our study is the Royal Commission's treatment of the issue of application of a broadly-stated inherent right of self-government. This approach is best expressed by the Commission in its handling of the question of transition from existing realities to a reconciliation of section 35's promise. The Commission set out a number of core principles:

1. The collectivity holding the right of Aboriginal government is the Nation. Nations, at least in the Indian context, will only in exceptional cases be represented by Indian Act bands. Partly as a result, and partly owing to the nature of the existing constitutional order, a formal process of recognition is required;

2. Standards for recognizing nationhood must be flexible, with certain core characteristics including common ties of language, history and culture, sufficient size to support the exercise of a broad self-governing mandate, and clear accountability consistent with international and Charter based human rights standards;
3. nationhood is linked to principles of territoriality, though the exercise of jurisdiction does not require exclusive territorial rights;
4. The establishment of jurisdictional certainty for Aboriginal Nations requires the vacating by the federal Crown of its authority under section 91(24) of the *Constitution Act, 1867* in core areas required for governance, confirmed through treaties;
5. Preparatory steps to aid transition, and successful recognition, necessitates extensive capacity building and re-building of Nations;
6. New structures and agencies for recognition, negotiation, dispute resolution and mediation are essential to insure that implementation is not delayed through litigation, and;
7. A new federal machinery of government is required to avoid the existing regime (e.g. the Indian Act) from biasing the process of reconciliation.²¹

In adopting an approach requiring a formal act of recognition for Aboriginal Nations prior to their exercising self-government, the Commission appears to have been concerned above all with avoiding the weight of the existing regime, together with the status, membership and accountability system of the Indian Act, having any influence in determining the legitimacy and capacity of Aboriginal Nations. To avoid representational disputes and the involvement of the courts in dictating criteria for Nation citizenship, accountability structures and the like, the Commission called for a three stage determination of criteria for recognition:

1. The negotiation of objective criteria for recognition between the federal government and national Aboriginal representatives, to be implemented through a federal Aboriginal Nations Recognition and Government Act; with Recognition Panels which would make recommendations to the Governor-in-Council for recognition through a new Ministry of Aboriginal Relations;
2. The determination by specific Aboriginal Nation claimants of their own criteria for citizenship, subject to rejection or suggested modifications coming from Recognition Panels or an appropriate Tribunal based on the criteria set out in legislation, and;



3. The entry of a recognized Nation into direct government-to-government negotiations, aided by a national framework agreement setting out common area of jurisdiction and financing arrangements, and subject to a range of mediation and dispute resolution processes at the national and regional levels.

It is useful to quote the report of the Commission at length on the rationale for its approach to recognition (RCAP, Volume 2, Chapter 3, p. 316):

...Thus, in this first stage in the recognition process, the errors and injustices of past federal Indian policy should be corrected by identifying candidates for citizenship in the Aboriginal nation that include not only those who are currently members of the communities concerned, but also those who desire to be members of the nation and can trace their descent from or otherwise show a current or historical social, political or family connection to a particular community or nation. From this enlarged pool of potential citizens of the Aboriginal nation, an appropriate citizenship code could make rational and defensible distinctions based on the principles contained in the Constitution Act, 1982, subsection 35(4), the Canadian Charter of Rights and Freedoms, and international human rights instruments.

The Commission's "central case" for self-government should not be misinterpreted to imply that the Commission only endorses land-based groups, with common cultures and nationality, as having either the right of self-government, or as requiring accommodation for self-government as a matter of policy. For example, as the Commission remarked, "(t)raditionally, the family or clan constituted the basic unit of governance for many Aboriginal peoples" (RCAP: Vol. 2, Chapter 3: 128). Moreover, the Commission clearly foresaw that the process of re-building ties within Nations would take time, and considerable effort, before self-government could be fully exercised. Indeed, the process of breaking down past and existing barriers between members of Aboriginal Nations - as characterized in particular by status and reserve residence boundaries, as well as by fragmentation of Nations into band and non-band groupings, including urban communities - was a specific preoccupation of the Commission and the driving force behind its insistence that the recognition of Aboriginal Nations follow, and not precede, inclusive Nation re-building efforts. Finally, the Commission pointedly included urban Aboriginal peoples in its recommendations on governance.

The Commission's normative approach to urban governance reflects its affirmation that Aboriginal peoples are not to be defined or characterized in racial or minoritarian terms, but as citizens or members of political bodies or Nations:

Aboriginal peoples are not racial groups; rather they are organic, political and cultural entities. Although contemporary Aboriginal groups stem historically from the original peoples of North America, they often have mixed genetic heritages and include individuals of varied ancestry. As organic, political entities, they have the capacity to evolve over time and change in their internal composition (RCAP: Vol. 2, Chapter 3: 177).

Turning to the implementation of self-government, the Commission laid out three broad models:

1. Territorial or Nation-level Government
 - ◆ characterized by jurisdiction over land, and co-jurisdiction over shared lands, and;
 - ◆ urban extensions of Nation-based government, whether within traditional territories or extra-territorially, through delegated or federal arrangements with urban members of that Nation, or through agreements with host Nation governments.
2. Public Government
 - ◆ Aboriginal peoples, Nations or multiple Nations comprising a majority within a defined territory, but sharing a common public government with all residents (such as in Nunavut).
3. Community of Interest Government
 - ◆ exercise of jurisdiction over communally shared interests such as cultural, spiritual or educational functions, common institutions including schools, housing and economic development and revenue generation;
 - ◆ does not operate on the basis of an inherent right, but rather through delegated powers from Aboriginal Nation governments and other governments, and;
 - ◆ membership based on Aboriginal identity and functional affiliation, rather than on familial, cultural, political or other affiliations with a particular Nation.

The primacy given the Nation as the constituent unit of constitutional government by the Royal Commission, together with the reality of demographics, led to further recommendations regarding how Nation-level and community of interest governments in urban areas should work together through such means as:

- ◆ service delivery agreements
- ◆ co-operative program and service delivery in specific sectors, and;
- ◆ co-operation for political advocacy and inter-governmental relations with federal, provincial and municipal governments.

There is of course a great deal more entailed in the Royal Commission's recommendations regarding self-government in urban settings, as well as on related urban issues. However, in the context of a normative assessment, the above overview provides the essentials, subject to one crucial note. The Commission was very clear that its approach regarding urban communities of interest, or

urban extensions of Nation government models, had to be understood in the wider context of its approach to re-building Nations, a process in which the Commission clearly saw all Aboriginal peoples, urban or not, playing an equal role. Barring the emergence and recognition of a fully inclusive Nation, for example, no implementation of self-government could be validly based on the inherent right of self-government under section 35, whether the context was reserve, rural or urban. In this regard the Commission focused less on the normative basis for any particular Nation to hold the right of self-government, but instead shifted attention to the normative requirements for any particular Nation to exercise that right. However, in doing so the Commission's reasoning was less formally stated in terms of explicit principles, whether drawn from the Aboriginal rights orientation or from some other normative framework.

3. Federal Policy and Practice

Governmental actions and policies are often defended or advanced without asserting an explicit set of norms or a particular theory of justice. The federal government consistently argues that Aboriginal rights have to be interpreted and exercised within the rule of law provided by the Constitution, a stance that is widely supportable. However, up to 1995, the federal interpretation of the rule of law was that the Constitution, being silent on any right of self-government, precluded its legal existence, which would have to be achieved through constitutional reform. In 1995, formal policy changed to reverse this position and the federal government now interprets the Constitution as protecting an inherent right of self-government. Neither before nor since 1995 have arguments been presented to root federal policy in a particular view or theory of justice. Thus it is important to examine governmental practice in order to uncover its normative underpinnings, as well as to address the question of applicability to urban settings.

The Federal government's first national self-government policy applicable to all Aboriginal peoples emerged in 1985. Prior to then the sole focus was with Indian self-government over Indian Act reserve lands. The 1985 policy was announced as a measure aimed at building practical, "bottom-up" confidence and understanding about self-government as part of an effort to bridge normative and political divisions between the Aboriginal leaders and Federal, provincial and territorial politicians engaged in the exercise of constitutional, or "top down" negotiations. The policy was also, however, a response to other pressures, such as reviving earlier efforts by the Department of Indian Affairs and Northern Development (DIAND) to reform Indian governance of reserves and escalate the pace of devolution of federal control, as well as to underscore the federal preference for provinces to assume lead responsibility over Aboriginal issues outside of reserve and Northern settings.

The 1985 policy involved two tracks, one (referred to as "community based Indian self-government") involving reserve-based groups, and a separate track for "off-reserve and Métis" groups, referred to simply as "tripartite self-government".²² The latter track, which has

been generally criticized for failing both to build confidence and to produce tangible results. essentially involved four features as it affected urban Aboriginal people:

- ◆ The policy required provincial-wide political initiatives through “recognized” off-reserve Indian or Métis political organizations.
- ◆ Provincial governments had to initiate talks, and agree to defray 50% of all process costs involved, with costs for implementation to be negotiated.
- ◆ There was no federal policy regarding the extent, scope or nature of self-government to be negotiated, other than to consider delegation as the main vehicle to establish Aboriginal jurisdiction.
- ◆ There was little or no capacity to establish links between processes affecting common First Nation, Métis or Inuit peoples on and off land bases.

The tripartite self-government policy, like its on-reserve version, was nominally replaced in 1995 when the Federal government, in advance of the Royal Commission’s expected report on the matter, announced its acceptance that Aboriginal peoples had an inherent right of self-government protected in section 35 of the Constitution Act. Consultations on the Inherent Right Policy were held with the NAFC and five other national organizations. However, the end result did not, for urban peoples, constitute a significant departure from the 1985 tripartite policy.

The Federal Inherent Right Policy, as it applies to non-reserve and non-Inuit groups, has not been elaborated on in great detail other than in the initial federal guide published in 1995 and in subsequent practice. The policy itself is comprised of the following components (Canada, 1995: passim, pp. 3-19):

1. Recognition of the inherent right

“Recognition of the inherent right is based on the view that the Aboriginal peoples of Canada have the right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with respect to their special relationship to their land and their resources”. This policy statement was explicitly tied to the assertion that, given the federal acceptance of what the law now provides, any constitutional amendment to confirm that the inherent right is in fact included within section 35 is unnecessary.²⁴

2. Negotiation, rather than litigation, is the preferred approach

“(T)he government is convinced that litigation should be the last resort. Negotiations amongst governments and Aboriginal peoples are clearly preferable as the most practical and effective way to implement the inherent right of self-government”.

3. Negotiated agreements may be constitutionally enforceable

Constitutional protection must accommodate the Canadian Charter of Rights and Freedoms and reflect limits on the scope



of the inherent right. The scope of appropriate governing powers is categorized under three heads:

- ◆ those matters that are “internal to the group, integral to its distinct Aboriginal culture, and essential to its operation as a government or institution” (including such issues as membership, governing structures, family law, language, culture and religion, education, health and social services, enforcement of Aboriginal law, land and resource management and general governance over Aboriginal lands, harvesting on Aboriginal lands, public works and taxation of members).
- ◆ matters that will be governed primarily by federal or provincial laws, but on which delegated or shared authorities may be negotiated (e.g., divorce, labour/training, administration of justice, corrections, environmental protection, fisheries management, gaming, etc.).
- ◆ matters the Federal government is not prepared to see negotiated (e.g., powers relating to sovereignty, defence and foreign affairs, national interest powers such as currency, monetary and banking matters, trade and competition policy, intellectual property, maintenance of law and order and the criminal law, protection of health and safety and federal undertakings such as broadcasting, navigation, postal services and statistics).

4. Non-land based self-government

The policy explicitly applies to Indian and Métis groups outside of a land base, and would permit agreements to be confirmed as section 35 treaty rights. However, the non-land policy is constrained: “Negotiations may consider a variety of approaches to self-government off a land base including:

- ◆ forms of public government;
- ◆ devolution of programs and services;
- ◆ the development of institutions providing services; and
- ◆ arrangements in those subject matters where it is feasible to exercise authority in the absence of a land base.”

5. Right of opt-in for non-landed members of land based groups

The extra-territorial application of laws or service arrangements by land-based groups would be at the option of non-resident members and would have to take into account issues of feasibility and affordability. This policy establishes or affirms a democratic consent requirement that treats non-resident Aboriginal members of an otherwise landed group as discrete for the purposes of at least assenting to or rejecting extra-territorial application of self-government to them.

We now return to federal practice in the implementation of the inherent right, insofar as this may illuminate the normative underpinnings of policy. Three points seem of particular importance in this regard.

1. The 1995 policy highlights a change from the earlier policy for non-reserve groups by stating that “negotiation processes may be initiated by the Aboriginal groups themselves and will be tailored to reflect their particular circumstances and objectives”. At the same time, federal practice has not changed: provinces are mandatory participants to off-reserve negotiations such that Aboriginal initiative will not proceed at all, even in respect of examining “internal powers”, without prior agreement by provincial governments over participation and matched funding of process costs;
2. In a departure from earlier practice, the initiation by or involvement of non-reserve political organizations at the provincial level is no longer a pre-condition for self-government negotiations. Specific community initiatives, such as the “single-window service” model being implemented in Winnipeg²⁵, are capable of accommodation without having to proceed through province-wide processes or organizations of an avowedly “political” nature, and;
3. Finally, the level of federal resources dedicated to non-reserve self-government, including in urban settings, is quite small, representing about 5% of the total funding dedicated to self-government negotiations.²⁶ The tripartite policy is led not by the Minister of Indian Affairs, but rather by the “Federal Interlocutor for Métis and non-status Indians”, normally a role assigned on a part-time basis to the Minister of Natural Resources with staff support provided by a unit within the Privy Council Office.

Taken together, this practice of limited funding, requiring provincial matching of resources, along with limited ministerial and official support, reflects a federal position that the provinces, and not the federal government, hold a primary responsibility for addressing the needs of Aboriginal peoples outside of reserves or in urban settings. This position on responsibility relates, in turn, to a long standing Federal jurisdictional stance to the effect that Métis (and possibly non-status Indians) fall outside of Parliament’s jurisdiction over “Indians, and lands reserved for the Indians”.²⁷

4. Drawing Conclusions

In closing our discussion of the normative approach flowing from section 35 rights, it is clear that hard and fast conclusions about applicability to urban self-government contexts should be avoided. Aboriginal rights are context specific. There is no logical or necessary reason to assume that an Aboriginal community in an urban context, even one comprised of diverse origins, could not assert a right of governance over core matters of “Aboriginality” or identity. At the same time, the priority assigned to common cultural,



historical community features, together with the need to illustrate at least rough continuity with pre-established Aboriginal societies, provides some clear indications of the difficulties facing any such urban assertion of an inherent right.

The Aboriginal rights approach to justifying self-government is therefore in need of some clarification, both in relation to its normative assumptions and in relation to its practical application. Notwithstanding the political and legal qualms of many commentators, the Aboriginal rights approach, at least in its dominant form as expressed by both the Courts and the Royal Commission, is essentially a theory of shared or overlapping sovereignty. As the Supreme Court has put it: “(t)he basic purpose of S35(1) is the reconciliation of the pre-existence of Aboriginal societies with the sovereignty of the Crown.”²⁸ This normative orientation attempts to answer the classic question of “who should govern” by identifying the legitimate successors of Aboriginal societies in the pre-contact or pre-European sovereignty periods, and then placing those authorities in relation to the jurisdictional capacities of the Federal and Provincial orders of government. This is evident in the Supreme Court’s focus on the importance of contemporary Aboriginal societies having continuity from pre-sovereignty social organizations, and is clearly expressed in the primacy given the need to rediscover and re-validate the “Nation” by the Royal Commission.

On a practical dimension, the rights-based approach also faces challenges even from those advancing it as a policy premise. The dominant focus of federal policy on land-based groups appears driven by an interest in establishing the “natural” locus of authority or law-making. Put another way, federal practice and policy appears to be guided by an assumption that the right of self-government vests most naturally in already established and recognized groupings under statute law, even where such groups are only a fragment of former Nations. In this, federal policy appears at odds with the normative approach taken by the Royal Commission.

This normative fissure is to be expected, of course. Governments are naturally prone to avoid stark departures from the status quo and limit their exposure to new demands for resources and policy obligations. Federal policy, in giving greatest emphasis to already established reserve-based and Northern public governance, appears to be informed by considerations beyond the Aboriginal rights framework, such as a preference for the organization of democratic governance by territory, rather than by nationality or personality, an orientation discussed in greater detail below.

The Aboriginal rights framework must also come to grips with a fundamental paradox associated with setting the question “Who should govern?”, particularly when addressing governance requirements for the 50% of the Aboriginal population which resides in urban areas. The main paradox is that the question “Who should govern?” can and often does lead to profoundly bad government, precisely because it tends to assume that there is a “natural” locus of authority - whether in a sovereign entity, a territorially defined group

(whether in a majority or not), or a class or group of people felt to be somehow more able or capable of making decisions than others are. Put differently, in the otherwise valid effort to establish abstract normative footings for an inherent right of self-government, the development of an ideal may defeat the purpose of addressing the needs of people as they actually inter-relate and wish to govern themselves. The means used to advance the end of gaining acceptance for the existence of an inherent right, once successful, may prove inadequate or even retrogressive in addressing how to go about achieving good governance for, and by, Aboriginal peoples as they actually are and as they would wish to become. We will return to the latter pre-occupation, which is with how the "living law" of Aboriginal communities is to be recognized and reflected.

B. LIBERAL DEMOCRACY AND THE ACCOMMODATION OF DIVERSITY

Canada is styled as a liberal democracy,²⁹ reflecting a vision of representative and responsible government, equality of citizenship and the protection of individual liberties, both in property and in relations with the state, as its most fundamental norms.³⁰ The core value of this tradition is to be found in a particular view of how "equality" constitutes "justice".

Individual and Substantive Equality

In setting the basis for an assessment of urban Aboriginal governance from the vantage of liberal democracy, it is useful to begin with a brief examination of the equality norm that stands as the leading premise of democratic liberalism. Building on a train of normative thought from Aristotle³¹ forward, H.L.A. Hart has written that "(j)ustice is traditionally thought of as maintaining or restoring a balance or proportion, and its leading precept is often formulated as 'treat like cases alike': though we need to add to the latter 'and treat different cases differently'".³² In the democratic tradition, the rule "consent of the governed" is allied with the principle of common or equal citizenship, as emphasized in the first half of Hart's precept. Citizens are to be considered as equals in law and in value, with equal rights of participation in public affairs. It is this part of the norm of equality that has so often been emphasized in the public debate over what are sometimes cast as the "special" rights of Aboriginal peoples, or demands for self-government that would be defined in terms of national, ethnic or even racial considerations, as opposed to those based on some more neutral basis that preserves the formal equality of all people regardless of national origin or other social characteristics not shared by all.

Despite that many accommodations provided diversity in functioning democracies, a fundamental difficulty for the norm of equality as it is often upheld in theoretical debates has been the influence of European concepts of an associated ideal: the Nation-state. Confronting this ideal since its inception has been the reality that the range of national identities present in the world, at well over 10,000, including some 6,000 indigenous peoples, far exceeds the number of states that either exist or may be desirable.³³



Margaret Moore (1995) has provided a pointed critique of this aspect of liberalism in her review of one of its leading exponents, John Rawls. Rawls puts forward a view of society that is, for Moore, culturally hermetic in assuming that citizens freely desire to embrace the unstated precepts of a dominant culture, or are able in a liberal society to avoid the imposition of cultural norms. For Moore, cultural identity is fundamentally political, and liberalism, prone to defend the equality of citizens by urging the privatization of culture, is singularly unsuited to regulating diversity.

Added to the challenge of diversity is the tradition of liberalism to which Canadian democracy is also largely heir. Liberalism is that set of beliefs which places the freedom of the individual, in relation to nature and in relation to others as well as the State, as being of the highest value in society. Liberalism thus has both an economic and a political component. Together with equality of citizenship, liberalism emphasizes freedom in relation to property, and further takes as a presumption of value the right of any individual to acquire or dispose of property in the market place.³⁴ This aspect of liberal democracy poses particular challenges for Aboriginal peoples, of course, but also gives rise to tensions and frictions for others, since the claim of individual freedom can be expressed in ways that undermine group solidarity not only for minorities, but also for majorities.³⁵

The normative basis for liberal democratic government is thus rooted in the formal equality of citizenship and the equality of individuals in law. Democratic government is also emerging as a new international norm or right, tied however to other rights such as that of self-determination of peoples (Franck, 1986). Utilizing the individual as the primary reference point for political democracy leads to both practical and normative issues for the organization of governance in the presence of social pluralism within states. As indicated above, the easiest case for liberal democratic theory to uphold is also the rarest: where a democratic state is co-terminous with a single national culture, with an absence of significant socio-cultural diversities that, if they are deep enough, may lead to fragmentation without some form of accommodation.³⁶ In the presence of such diversity, it is widely acknowledged that the Nation-state premise threatens the second half of the equality norm, which is to treat different cases differently. Only in the those branches of democratic liberalism (whether of the left or right wings of debate) that see the state as ideally minimalist in nature is it argued that the Nation-state presumption does not involve the de-valuing or suppression of non-majority cultures and institutions.³⁷

Nevertheless, few democratic systems treat individuals as equals for all purposes of governance. The second half of the equality precept is of equal importance, and acknowledges differences, and collective or group-specific disadvantage, as both inevitable and important to redress. This second part of the equality norm is not always well reflected in contemporary liberal democratic discourse, whether in the public realm or in scholarly examination. However, the norm of substantive equality does find reflection in the institutional and



political geography of most democratic systems, including that of Canada, and is a central theme of what are sometimes miscast as the "special" rights of Aboriginal peoples.

Linguistic, ethnic, racial and national diversity has been responded to in a number of ways by proponents of democratic liberalism. These responses range from the advancement or defence of such concepts as multi-culturalism, bi-lingualism, consociationalism and corporatism, to arguments holding that diversity should either be placed in or remain a part of the private, or civil realm, and not be reflected in legal or public institutions. This range of debate is also, of course, present in the public discourse on governance now current in Canada.

Based on the considerable effort given by the scholarly literature on democratic liberalism to the question of minority rights and nationalism in Canada, commentators within this tradition have recently begun to grapple directly with Aboriginal self-government.³⁸ The more discrete issue of self-government in urban areas has as yet remained unexplored in the normative deliberations within this tradition. Proponents of accommodation, most notably Will Kymlicka (1989, 1991), as well as other commentators (Cotterrell, 1997; Duncanson, 1997; McDonald, 1992; Merry, 1997 and Moore, 1995), have also tended to advance the debate at a level of abstraction that often assumes too little (such as Aboriginal cultural difference un-connected to more discrete identities of Nation) or too much (i.e., Aboriginal rights as inexorably tied to land use, and thus only prompting a challenge of accommodating territorially exclusive forms of governance) to be of direct significance to a pragmatic consideration of the urban self-government context.

Nevertheless, we believe it is of considerable value to compare how diversity has been responded to as a normative challenge within the framework of liberal democratic theory. This is particularly so in relation to the value assigned to the preservation and advancement of cultural difference common to minority rights advocates, which is widely acknowledged to be in need of reconciliation with the formal precepts of democratic equality. In addition, the norm of equality that is at the centre of democratic liberalism may hold a unique capacity to bridge suspicions that are attached to the more unique justifications drawn from the Aboriginal rights framework. As Macklem (1995: 28) has argued:

Equality principles are doubly useful in that they possess normative significance to Aboriginal and non-Aboriginal people alike... Formal equality supports the recognition of an Aboriginal right of self-government by calling for Aboriginal peoples to be placed in a position they would have been in had they been treated as formally equal to European Nations at the time of contact... [S]ubstantive equality of peoples supports a right of self-government as a means of ameliorating Aboriginal social and economic disadvantage.

The social disadvantages and marginalization facing many Aboriginal people in urban areas is not, of course, unique to urban



areas or uniquely caused by urbanity. Nevertheless, the achievement of substantive equality and the amelioration of adverse conditions can hardly be achieved without addressing the realities faced by over 50% of the total Aboriginal population. Moreover, urban Aboriginal communities are by definition in a minority position within the territorial boundaries of cities or towns, and this fact opens up the question of the utility and applicability of the range of strategies for minority accommodation that have been developed in other settings. Aboriginal peoples are also often cast as double minorities, since even where an urban setting witnesses a predominance of Aboriginal people from a single broad national origin, these urban communities are also usually in a minority in relation to their co-nationals living as majorities in reserve, rural or remote areas. Finally, a substantial number of urban Aboriginal people in larger urban centres have diverse national origins and would wish to pursue governance forms that accommodate diversity within the Aboriginal world, and not merely between the latter and wider non-Aboriginal society.

Accommodating Diversity: Three Themes

As one of the oldest surviving federal systems, it is perhaps natural that Canadian scholars have generated a massive literature on how norms associated with liberalism and democracy are to be accommodated with collective diversity.³⁹ At the risk of oversimplification, the response of the liberal democratic tradition to diversity has generally followed one or more of three major strategies: a) the adaptation of territoriality to reflect ethnic or national predominance; b) the use of common group characteristics, rather than territoriality, to organize governance, and c) the privatization or de-politicization of governance so as to avoid conflict where a political majority is consistently apt to enforce its own values and norms on minorities.

1. Territoriality

Territoriality is often regarded as an unavoidable feature of governance. Municipal boundaries, like those between provinces and states, define the general limits of political jurisdiction for governments, as well as setting the residence boundaries for the determination of political citizenship. Nevertheless, the predominance of territoriality as an organizing principle for governance is relatively recent (Elkins, 1994; Groves, 1991). Its commonality as a feature of governance reflects a wide range of influences that we would not normally describe as normative in character, including the dictates of warfare in the establishment of international boundaries, and the need to accommodate a highly mobile citizenry in the creation and constant adjustment of municipal ones. It might be noted in this regard that the establishment of the intermediate political boundaries of states and provinces in North America, so crucial to the operation of federal systems of government in Canada and the U.S., were drawn on the basis of astronomical considerations as much as social ones, precisely because of the presumed lack of human content in areas being newly settled.⁴⁰

Of particular relevance to our study is the use of territoriality to accommodate diversity, rather than to suppress or overwhelm it. Four examples from Canada are noteworthy in this regard.

a. Boundaries of Quebec/Ontario and Nunavut

One of the oldest uses of territoriality to accommodate diversity is the solution to the duality of English and French societies at Confederation attempted by ensuring the territorial predominance of citizens with different national origins in Quebec and Ontario. This initial strategy has been the subject of repeated calls for reform, both by de-emphasising the territorial divide between Francophones, predominant in Quebec, and Anglophones, predominant in all other provinces, as well as by re-inforcing territoriality to its most extreme expression: through Quebec independence. However, it is often over-looked that Quebec (and Ontario) have not been alone in pursuing territorial accommodation of national or linguistic distinctions. The same was unsuccessfully attempted by the Métis majority of the Assiniboine district in the struggle for the creation of Manitoba, and attempted again in the North West rebellion in Saskatchewan in 1885. The failure of the latter two efforts merely underscores the sense in Aboriginal eyes that a willingness to accommodate diversity through territorial adjustment of political boundaries has often been un-equally applied to their disadvantage.

The use of territoriality to accommodate diversity is also re-occurring now with the formation of the Territory of Nunavut. The Inuit majority in the eastern Arctic is to have have its present bare plurality within the N.W.T. become an overwhelming majority through the creation of Nunavut, securing Inuit predominance within an otherwise public government order.

b. Electoral Boundary Adjustment

A second case is to be found in the regular adjustment of the political boundaries of municipal, provincial and federal electoral districts, which are altered once a decade or so in order to reflect demographic shifts in the social, economic and cultural make-up of communities. Boundary adjustments at this level can lead to often wide numerical variations between electoral districts, thus permitting rural, remote and smaller urban areas to find some collective representation and avoid being swamped by very large metropolitan populations. This form of accommodation may present representational options to urban Aboriginal communities, whether in urban, provincial, federal or non-local Aboriginal governance, and it is clearly an option with considerable precedence, and acceptance, in non-Aboriginal contexts.⁴¹

c. Aboriginal Reserves & Settlements

A third example of particular relevance is the historic and still-occurring establishment of Indian reserves, Métis settlements and "designated Native communities" for Aboriginal people. Reserve boundaries initially were drawn precisely in order to permit Aboriginal minorities within a broader social setting to maintain a degree of local majority status and governance, however delegated or aimed at eventual incorporation or assimilation the policy of reserve governance has been. In the



case of Indian reserves, the territoriality principle was blended with that of personality, such that only resident members of an Indian band are usually able to participate in governance.⁴² In the case of Métis and Inuit communities having experienced similar accommodation, a more straight-forward application of the territoriality principle has been involved, not only by provincial governments (as in the case of the Alberta Métis Settlements) but also by the federal government.⁴³

It is important not to assume that the application of territoriality to Aboriginal peoples was uniformly applied so as to reflect or support existing majority Aboriginal settlements. In many cases, reserves were established to attract Aboriginal peoples away from where they were living in order to free up the latter areas for settlers. Sometimes this was done in the course of treaty-making, as in the Prairies, but in the Maritimes, Quebec, parts of Ontario and B.C., this was not the case. In many instances, and some quite recently, reserves have been established explicitly in order to relocate an Indian community away from a competing urban area, as well as in order to house and educate (as well as Christianize or assimilate) more nomadic Indian families and bands.⁴⁴

A variation on the use of territoriality to accommodate Aboriginal interests that is of contemporary relevance in the formation of urban reserves. In Saskatchewan the settlement of treaty land entitlement claims based on short-falls in the original establishment of reserves in the late 19th and early 20th century has led to agreements to permit the acquisition of lands in urban settings by non-urban Indian Bands, and the legal categorization of those lands as federal Indian reserves. This use of territoriality is explicitly aimed at providing economic development opportunities for more rural and remote communities. However, there is a double irony involved in this strategy. These urban reserves are essentially intended to be un-occupied bases for generating exportable wealth, as well as to engage band members (both locally and from the home reserve) in training and employment opportunities. Even where the home community has a significant proportion of its members residing in the urban area involved, little consideration seems to have been given to the opportunity for extending community self-government opportunities to the latter through the use of the reserve as a residential or institutional base, such as for schooling or other culturally important public services. The second irony is that the presence of many Aboriginal people in urban settings was in part sponsored by the lack of land and economic opportunity in the rural or remote settings in which reserves were originally established.⁴⁵

It is a further irony that the response of municipal governments and organizations to Aboriginal self-government has largely been framed in the context of the loss of municipal land, and rents, to the land acquisition approaches of non-urban Aboriginal communities, such as in B.C. and Saskatchewan (FCM, 1993; UBCM, 1994; Dust, 1995). Relatively little

consideration has been given to municipal accommodation to resident Aboriginal communities (Frost, 1995).

d. Urban Neighbourhood Government

A final example of territorial accommodation is to be found in the wide range of local community governments, special corporations and institutions established within broader metropolitan boundaries to reflect the desire of cultural, class or even occupational interests to hold sway in such matters as the operation of publicly funded community centres, schools, zoning decisions, etc.. This long-established trend involves the re-enforcement of place, or the social definition of locality, within a broader system of citizenship equality within space. It may be, as asserted by some specialists in urban sociology, that it is precisely because cities and towns lack a sure political jurisdiction over space that they can, and should, flexibly tailor their administrative functions to the needs of identity groups which lack territorial predominance (Lustiger-Thaler, 1992: 205).

The reaction to this form of accommodation ranges from treating it as a major problem (e.g., the urban ghetto) to embracing it as crucial to reviving civic cohesion and community spirit. Reflected in the "little Italys", "Chinatowns" and "French quarters" in many of Canada's larger cities, this form of empowering specific cultural or economic interests is also to be seen in the maintenance of borough or even street-level institutions of special governance.⁴⁶ In this regard, it may seem somewhat surprising that the many large Aboriginal communities in such cities as Winnipeg, Saskatoon, Edmonton or Toronto have not opted for similar arrangements with greater attention to the establishment of neighborhood majorities. However, it needs to be added that both federal and provincial, as well as local reactions to the prospect of Aboriginal neighborhood community government has been one of often deliberate avoidance.⁴⁷ At the same time, urban Aboriginal communities in larger cities have established city-wide institutions, including schools, child and family welfare services and even alternative justice measures, as have other cultural communities. The avoidance of local, majority-based options may reflect opposition (both internal and external), but may equally reflect the limits of what can be achieved through the creation of municipal sub-units of government. As some municipal leaders have noted, Aboriginal interests in governance, such as in the fields of education, training, employment and family law, frequently go beyond what can be accommodated by municipal governments, even in the context of establishing neighborhood or other local majority-based institutions (Dust, 1995).

In conclusion, there are a wide range of precedents for the adaptation of the territorially based public government preference of the liberal democratic traditions to suit national, ethnic or other forms of diversity. From a normative standpoint none of these precedents are un-controversial, but all attempt to build on the wider acceptance of equality of citizens by adjusting the boundaries that determine regional or local majorities. In doing so, this strategy attempts to

balance both sides of the equality norm, by treating all persons as equal within a territorial space, but only after adjusting territoriality to reflect the need to arm specific groups (and social acceptance of place) with substantive or remedial equality at the more collective level.

If there is a major caution to the utilization of territorial strategies of accommodation, it appears to lay in its propensity to overly rigid application. Two examples from the Aboriginal experience underscore this danger: the strict definition of collectivities in terms of their association with an exclusive land base; and the association of political entitlement to citizenship with local residence. Both of these approaches are to be found in the organization of Indian reserve governance as determined by current federal legislation, with results that are often un-just, and frequently absurd (Groves, 1991).

2. Non-Territorial Accommodation of Collective Diversity

The use of non-territorial or “personality” based criteria such as language, ethnicity or nationality to organize law and governance is quite rich in history, including that of Canada. The establishment or recognition of legally empowered institutions that are explicitly aimed at meeting particular socio-cultural needs or representing cultural rather than territorial associations is a common feature at all levels of government, perhaps reflecting the much longer pedigree that personality has had as an organizing principle for government as compared to the principle of a common citizenship organized by residence.

As in our discussion of territoriality, it is useful to set out a range of examples where personality - the collective attributes of different groups - has been utilized for purposes of organizing public life and governance. Three broad cases are provided by way of illustration.

a. Minority Representation

Canada’s history is replete with cases of special representational measures taken to insure that governmental decision making reflects diversity. At the federal level, the Senate is perhaps the clearest example of the use of an appointive system of representation in order to insure that key sectors of society - such as regional minorities, economic elites, the clergy and so forth - find representation notwithstanding the dictates of majority electoral politics in the House of Commons.⁴⁸ In the Senate’s case, there is in addition a deliberate effort to define and equalize regions (as opposed to provinces), notwithstanding the wide variation of populations amongst them.

At the provincial level of governance, the representation of the main denominational minorities - Protestants and Catholics - was still found until 1996 in the case of the Legislature of P.E.I., in which each riding had dual representation, with one delegate elected from each denomination. Similarly, a bicameral legislature for Quebec was originally provided for in order to accommodate both denominational and linguistic diversity, though abandoned



early in that province's history. Uniquely corporatist approaches are also evident in territorial levels of governance, such as in the convention utilized over the past decade in the N.W.T. of having Aboriginal leaders join the elected executive in assisting in the development of legislative agendas and issue arbitration. An earlier case consistent with this more recent trend was to be found in the provisional government in Manitoba formed by Louis Riel, in which the clergy and local business interests were assured representation, together with both the English and French-speaking Métis populations.⁴⁹

Given their subordinate nature in Canadian history, the degree to which the personality or group-based distinctions attending Aboriginal peoples have found representation in local or municipal government is often less than apparent. Yet there are a number of examples of attempted accommodation for key minority groups. Until the 1940's, for example, Montreal was governed by a council that blended electoral and appointive representation, with the business and religious communities each receiving guaranteed representation.⁵⁰ More often, however, municipal governments attempt to accommodate cultural diversity through appointive advisory bodies or liaison committees to either the executive or the elected council.

b. Institutional Autonomy

Most familiar to Canadians is the pattern of institutional autonomy afforded different sectors of society over what has been regarded as one of the most important areas of social governance: the education of children. The *Constitution Act, 1867* reflects the most prominent case in section 93, in which denominational control over schooling is provided for in those provinces where it was a feature in law prior to 1867. More recently, there is a trend towards eliminating strictly denominational school boards, with their replacement by linguistic community control over schooling, as in New Brunswick and Quebec. In this regard New Brunswick is rather unique in being the only province in which the Constitution defines the linguistic minority as a formal community, with collective rights. This approach is also reflected, though with less formality and collective recognition, in Canada's Official Languages Act, in the Quebec school system, and in the recognition of official languages in the N.W.T..

There are other cases of institutional autonomy and self-government formally provided for in law, such as in the delegation to the legal and medical professions of significant powers to determine and sanction membership and to establish rules of practice that bind not only their members but the public at large. This approach is quite distinct from the regulation of non-profit societies involved in delivering public services since in the former cases the professional associations concerned are exercising delegated public government powers set by statute. The latter cases are not commonly regarded as political self-government, though their influence and importance in urban existence frequently outstrips that of the more formal examples of delegated governance.



c. Judicial recognition of customary or minority law

Judicial recognition of customary or minority law constitutes a third way in which a non-territorial conception of personality informs public life and governance. Michael Mastura (1994) has developed an instructive typology for how dominant legal traditions have characterized and responded to minority legal norms and institutions:

- ◆ by reception (e.g., recognized and enforced as a separate and equal body of law, with its own legislative and enforcement structures);
- ◆ by exception (e.g., formally applied by the normal courts as applicable when not in conflict with dominant legal norms), and;
- ◆ by adaptation (e.g., relevant to interpreting the dominant or state law, but with no independent legal force).

Of these three approaches, reception is clearly the most powerful from the vantage of minority legal institutions, since it carries forward the entire apparatus of law making, law interpretation and enforcement by the group concerned. Exception can be equally powerful, but relies upon positive state recognition, as in the Philippines with the Muslim Code. The least potent form of adaptation, from a minority perspective, is that of adaptation, since this merely involves the dominant legal regime taking social codes, laws and practices into consideration when applying dominant legal forms, whether common, civil or statute in nature.

While Aboriginal customary law, particularly in relation to adoption of children, has been upheld in some Canadian courts for some decades now, it is interesting to note that this has been largely by adaptation or exception, not by reception.⁵¹ The Supreme Court of Canada has only recently ruled on the validity of Aboriginal law as a source of interpretation in determining the nature of Aboriginal title,⁵² and it is unclear whether this ruling will find wider application to a broader range of rights, including that of self-government. Despite the Supreme Court's ruling that Aboriginal law is an equal source for determining the nature of Aboriginal title, it is not clear that this amounts to "reception", since the court's ruling was framed in the context of instructions to trial judges in the determination of Aboriginal rights as a constitutionally protected branch of common law. Indeed, the Supreme Court's general strategy in this regard seems to involve the striking down of provincial or federal laws that are inconsistent with specific Aboriginal rights, such as fishing and hunting, in order to encourage their replacement through negotiated agreements, as opposed to upholding Aboriginal rights as practiced or enforced through autonomous institutions of governance.

Summing Up

These broad types of non-territorial accommodation to diversity illustrate several important lessons. First, the nominal equality of citizens, even within staunchly liberal democratic traditions such as in Canada, is very often accompanied by strategies to accommodate collective diversity not susceptible to territorial organization. In Canada, this has been reflected in the Constitution, as well as in more discrete provincial and municipal law and practice, to secure

both representational rights and delegated governance powers for important collective interests that find themselves in minority situations. Less apparent in the Canadian tradition is the formal reception of Aboriginal or customary law within the dominant legal tradition, though this direction is clearly of growing significance, and may have particular application for Aboriginal communities in urban areas in relation to such matters as cultural retention through education systems. Secondly, non-territorial strategies have not typically been utilized to accommodate Aboriginal minorities in Canada. Why this is so, especially given the unique needs facing Aboriginal minorities within urban settings, appears to be worth considerable attention and discussion.

3. Privatizing Governance

The final broad strategy for dealing with social diversity is that of privatizing spheres of social activity such as to remove them from public governance entirely. By privatizing we do not mean the selling off of public assets or public regulatory control to private corporate interests, such as is done increasingly in some fields of public administration like corrections. Instead, we refer to the de-politicization of social activity through the withdrawal of public governance from a particular sphere, such as in the regulation of education, social welfare or health standards and services.

The privatization of governance functions is a strategy for responding to diversity that is particularly favoured by proponents of minimalist government, as well as those stressing the freedom of individuals to make their own choices in both an economic and social market place (Metcalf, 1996). Minority groups are, in this train of thought, held to be completely free to organize their socially relevant activities without interference - including those relating to education, social welfare, language etc..

It is difficult, however, to provide clear and consistent examples of the privatization of formerly public matters. For example, in the area of education, there are few if any cases in Canadian practice of the educational sector being privatized, as it has been a matter of statute law since Confederation. Even in provinces, such as Alberta, where the option of charter schools has been attempted, the public school system is still in place, supported by mandatory taxes paid by all alike. What is more regularly witnessed is the concentration in public school systems of efforts to attempt to neutralize dominant cultural influences, or to try to reflect or represent minority views in the otherwise dominant social context, an approach that is accompanied in practice by the right to "opt out" of public schooling for those minorities who wish to, and can afford to, provide for their own culturally relevant school systems.

The approach of de-politicizing diversity is nevertheless of some interest from a theoretical and practical point of view. As a strategy, it presumes that sociality can be kept distinct from government. As such, the approach appears amenable to those who otherwise take fundamentally opposed views of both society and liberalism. The strategy of privatization, or socialization free from majority imposition, appears common to those who are convinced of the



essentially benign impact of majority cultures on minorities, and those who are convinced, on the contrary, that majority imposition is so prevalent that the only truly liberal solution is to strip majorities of any involvement in socially important decision-making.

C. COMMON AND DIVERGENT NORMS

Our overview of two major traditions - Aboriginal rights and democratic liberalism - may serve to highlight both common and divergent norms in assessing options facing Aboriginal governance in urban areas.

As a broad statement, it seems fair to conclude that there is more common to the two traditions than actually distinguishes them. Both stem from a concern with achieving justice, and accordingly both struggle with how to achieve respect for the equality of individuals, while providing the balance needed to respect relevant difference. This commonality is perhaps more evident in the focus of each tradition on substantive equality, or the equality of outcomes as between different groups in society. In the Aboriginal rights tradition, the primary consideration has been the lack of an effective reconciliation in Canadian society and governance for the pre-existence of Aboriginal societies. This approach stresses the need for recognition and equality as between collectivities in order to permit individual freedom to flourish within both distinctive and shared social and governance structures. In the liberal democratic tradition, a similar concern with substantive equality is evident, though informed by a greater focus on the tensions implicit in balancing the nominal equality of individuals with the need to respect differences that are fundamentally collective in nature. Nevertheless, this tradition provides a wide range of examples of the accommodation of diversity - whether territorial in nature, through rights of representation, institutional autonomy and customary law adaptations or by way of the privatization of socially important facets of life so as to prevent their being dominated by majorities.

Similarly, both traditions have tended to give greater scope for Aboriginal or minority cultural autonomy through the use of territorial adjustment. This adoption of territoriality does not, however, appear motivated by normative considerations. Territoriality is defended within the Aboriginal rights tradition because of the cultural association of Aboriginal peoples and cultures with place, even in cases where the traditional cultures involved were essentially migratory throughout large territories that frequently overlapped that of others, including more sedentary Nations. In contrast, the liberal democratic tradition emphasizes territory in its spatial characteristic, de-emphasizing the cultural or social definition of place in exchange for the efficiency and convenience of organizing the governance of populations organized within particular geographic regions. Variations and accommodations to this dominant approach sometimes involve the local or regional creation of territorial majorities for groups that would otherwise become suppressed in wider majorities.

Where divergence most clearly emerges as between these two broad normative approaches is in connection with how they characterize equality and freedom, and in how non-dominant groups - whether Aboriginal or immigrant in origin - are accommodated. On the first point, the Aboriginal rights approach tends to premise the achievement of individual freedom on the need for strong and culturally relevant collective institutions. Individual freedom is viewed through the prism of collective identity and consensual decision-making. While this "collectivist" approach has often been characterized as distinctive from and even opposed to the "individualism" of liberal democratic traditions, this characterization appears to be overly artificial. As we have noted, both the Aboriginal rights tradition and that of liberal democratic theory spring from a shared pre-occupation with the origins of legitimate authority within society. And for both traditions, the inherent authority of a collectivity - a Nation - is the most powerful assumption of all, so much so that prominent theorists of democratic theory, from Rousseau to Rawls, have elaborated the fictional equivalent of primordial Nations in the form of a presumed social contract or compact binding the original adherents of any particular political society.

While less evident within the academic literature and in the Royal Commission's writings, it is also important to note that there is evidence of considerable communal tolerance for collective diversity present within the traditions of many Aboriginal Nations, such as found in the use of clan systems and countervailing power arrangements to protect more discrete interests within Nations and communities. We have found in the context of our dialogue with urban Aboriginal peoples that this is a constant and growing pre-occupation. While a concern with accommodating diversity within Aboriginal Nations or communities may not be a prominent feature in the contemporary literature on Aboriginal rights, this is clearly an area that merits attention for Aboriginal communities, families and other sub-national formations, whether living in majority or minority settings. Moreover, it appears to be a major requirement if the Royal Commission's recommendation for the re-building of often fragmented Aboriginal Nations is to be heeded.

An additional arena of divergence involves the range of preferences for accommodating diversity. The Aboriginal rights tradition has a decided preference for reinforcing kinship or Nation based affinities, together with securing the importance of the land - place - to a specific Aboriginal culture. In contrast, the democratic liberal tradition seems less mandatory about accommodating diversity other than to attempt to import as broadly inclusive and efficient modifications as possible. For example, linguistic and religious accommodations, whether organized territorially or through communal institutions, are generally cast as being of relevance, while for more discrete accommodations there appears to be a preference for non-governmental management, or privatization. Representational accommodations are similarly cast in broad terms, usually at the level of "peoples" rather than by being connected to specific communities or Nation-level formations.⁴³

There is one other arena of apparent divergence worthy of note. Within the framework of liberal democratic theory, individual freedom is often characterized as being connected to presumptions about the value of economic freedom within a broader market-place of options and choices. This is particularly evident in the writings of those who are strongly critical of efforts to reflect or accommodate ethnic diversity within democratic governance (e.g. Metcalf, 1997). However, the trend of normative opinion within the more liberal ranks of democratic theory ranges quite widely in this regard. Some variations presume that the market-place is essentially comprised of a common nationality - thus preserving the "Nation-state" core ideal as the basis within which otherwise "free" choices are to be made, an orientation that does not seem to stand that far apart from Aboriginal cultural practices. Still other branches of liberalism see no such necessary presumption, and tend to desire the strict limitation of all kinds of collective control, whatever their origin or form, over individual choice and freedom within a broader, even global, market place. The degree to which the latter approach is or can be regarded as culturally neutral, or rather advancing an emergent hegemony of the capitalist market system, is a matter that is open to considerable dispute.

A final reference point of utility in broadening the consensus may be found in noting the degree to which efforts to bridge the apparent divergences between Aboriginal rights and democratic liberalism can go. In his work for the Royal Commission on Aboriginal Peoples, David Elkins (1994) explored the potential of non-territorial models of accommodating Aboriginal citizenship within the overall ethos of democratic liberalism in Canada. Elkins explored the advantages of using the province as a working form for Aboriginal governance while suppressing its territorial presumptions so as to accommodate the lack of population contiguity, exclusive land-holdings and regional predominance of Aboriginal Nations and peoples generally. The result was his suggestion to empower Aboriginal citizenship by providing it a clear, efficient and rational expression through an "Aboriginal Peoples' Province", a constituent order of government within the federation that itself would not be entirely territorial in nature any more than the federal government is territorial at the level below Canada's international boundaries. As Elkins points out, the potential for such an approach would have been unthinkable only a few years ago, yet today finds serious attention being given it, if only because of the practical need to find a relatively stable and widely appreciated form of governance in which to frame Aboriginal citizenship. Moreover, such unique approaches to the blending of non-territorial citizenship with territorial models of jurisdiction or sovereignty may be more congruent with Canadian federalist traditions, in which there are explicit efforts to balance common citizenship with the governance needs of divergent nationalities.



The Aboriginal province model advanced for discussion by Elkins was not pursued, at least in that form, by the Royal Commission. Instead, the Commission called strongly for the recognition of the 60 or more Aboriginal Nations in Canada, each with core territorial, shared non-exclusive and some extra-territorial powers of particular relevance for non-resident citizens living in urban settings. However, added to this more national approach to Aboriginal citizenship, the Commission did call for federal integration of the sort premised in Elkin's exploratory study, particularly through the formation of a third House of Parliament, established to represent Aboriginal diversity on common issues within the ambit of federal jurisdiction.

As this discussion hopefully illustrates, the options open to the organization of Aboriginal communities and citizens are less constrained by normative presumptions about equality, or territoriality, as is sometimes thought.



III ABORIGINAL GOVERNANCE IN URBAN CANADA



The norms and guiding principles drawn from the the Aboriginal rights framework and democratic liberalism can assist in bringing a degree of order to the array of urban governance models that have been proposed or mooted in the past.² As a preface to the consideration of main options for the future, it is useful to note that many commentators do not regard the various initiatives that have emerged to date in urban settings as constituting self-government proper. Clatworthy et. al. (1994: 63) concluded their comparative review of urban Aboriginal organizations with the observation that "it is difficult to conceive of the existing group of urban Aboriginal organizations as effective forms of urban Aboriginal self-government" because of the absence of an accountability framework tied to an Aboriginal collectivity, whether based elsewhere or within the urban collectivity itself. This general comment about the non governing nature of existing arrangements is echoed in Brown and Wherritt (1995) as well in the submissions on urban self-government to the Royal Commission on Aboriginal Peoples from the National Association of Friendship Centres (1993) and the Native Council of Canada (1993).

Accountability is a crucial touch-point for attaining the status of governance, or self-government. Consent of the governed through a representative system is therefore a broadly held common norm, regardless of the framework or orientation advanced. Where there is variance as between the traditions, and in the models examined below, is in to whom accountability is owed, and how it is to be organized.

Generally speaking, most academic, Aboriginal and other analysts and commentators, as with the Royal Commission on Aboriginal Peoples, have approached urban self-government by concentrating on three major variables: territoriality, identity and majority/minority settings. The following chart illustrates these variables and the associated range of models that have been proffered.

Territorial Governance	Communal Governance	
Nation-specific public government (Sechelt, Nunavut)	Majority settings autonomous Nation-specific neighbourhood government	Minority settings autonomous Nation-specific institutions
Aboriginal Nation enclave (reserves, Métis settlements)	Nation-specific or "host Nation" delegated government	delegated institutional autonomy guaranteed representation
multi-Nation public government (Western Arctic?)	autonomous Aboriginal neighbourhood government	autonomous city-wide authority
inclusive Aboriginal enclave (Six Nations)	delegated neighbourhood government	delegated institutional autonomy
		guaranteed representation



This chart organizes fourteen examples or models by three main organizing principles: the identity of Aboriginal citizenship (organized by Nation or residence), the degree to which governing authority is delegated (from a broader Nation or group) or autonomous, and the local numerical context. Also highlighted, on the left hand-side of the chart, is the option of territorial governance, in which the Aboriginal community concerned would effectively displace the municipality, and the province, in many if not most aspects of jurisdiction.

It is not our purpose here to assess all the variations possible as illustrated above. As many commentators have indicated, Aboriginal communities are well advised to develop unique blends of different approaches to suit their needs and the desires of those directly affected. Our intention is, rather, to provide a normative assessment, and add some practical commentary, on the three predominant trends or models that each of the more subtle variations stem from in organizing Aboriginal self-government in urban areas:

- a) by Aboriginal Nation;
- b) by the Aboriginal community as a whole within the urban boundary, and;
- c) by territoriality, whether established by nation or not.

For each of these three models, we summarize what each of our approaches have to contribute by way of normative support, opposition or accommodative opportunity. We then assess the practical application of these models in light of the socio-demographics of Aboriginal peoples in the variety of urban settings already discussed in Part I. Finally, based on our field research into urban Aboriginal views on these models, and as disclosed through ten focus circles held across Canada in the later Autumn of 1998, we report opinions on the practicality and desirability of each model.⁵⁵

A. NATION SPECIFIC APPROACHES

The preferred approach of the Royal Commission for the organization of self-government in Canada, regardless of locale, is to first re-establish Nation-level institutions that transcend former divisions imposed by federal legislation, and have these newly re-established national organizations reflected in official federal recognition, before proceeding to self-government negotiations. In effect this vision would see the emergence of at least 60 or so Aboriginal Nations in Canada with citizens living in local majorities on exclusive land-bases and in minority settings in rural areas and in urban centres, bound together through common national citizenship and being served through either direct or indirect arrangements established by representative and responsible governing authorities. The Commission's approach thus underscores a formally territorial or land-based conception of nationality, tied to a non-territorial extension of governance to national citizens where they are in fact located and present in sufficient numbers to permit governance arrangements to apply.

1. Normative Analysis

a. Aboriginal rights considerations

Set against the various streams of thought within the Aboriginal rights framework, it is clear that the Nation-based approach to self-government has the most solid of normative footings. Three characteristics of this approach in particular stand out to buttress its normative force. First, the source of the right of self-government would be found in a Nation with clear continuity from pre-sovereignty formations, or as expressed in treaty agreements.¹⁰ As long as governance or self-government is contextually linked to such a Nation, its legal force has a much greater basis in Canadian constitutional law.

Secondly, utilizing a Nation-level formation to organize urban governance would also aid in triggering jurisdictional entitlements over a potentially broad range of topics, including matters integral to a Nation's distinctive culture and identity, such as child welfare, education, adoption and other family law matters, as well as language and cultural forms. Moreover, where the urban community concerned was also within its own traditional territories (e.g., Squamish in Vancouver, Algonquin in Ottawa; Montagnais-Innu in Sept Îles or Mi'kmaq in Truro), additional capacities tied to the exercise of use and occupancy or Aboriginal title would be more clearly generated, as would the application of Aboriginal law to the governance over shared use lands in an otherwise urban setting.

A final consideration flowing from the Aboriginal rights framework is that of restorative justice. As with the question of the source of rights and the contextual relevance of governance powers, the Nation-specific approach would achieve the deepest level of restorative justice in reconciling the pre-existence of Aboriginal societies with Crown sovereignty. In particular, the Nation-level approach would, as set out by the Royal Commission, endeavor to undo a century and more of intrusive social engineering efforts aimed at assimilating Aboriginal peoples and breaking up their national identities by re-forming those Nations so as to be both effective and inclusive political units in an Aboriginal order of government within the Canadian federation.

b. Democratic Liberalism

Three primary considerations drawn from the framework of democratic liberalism as it has developed in Canada can be applied to this model of urban self-government:

- i) the concern to insure individual equality, political citizenship and to maximize individual freedom of choice;
- ii) the provision of substantive equality amongst collectivities on issues of relevant difference, and
- iii) an overall preference for efficient and public level government in which diversity is accommodated either by adjusting territorial boundaries and providing for minority autonomy over important institutions, with less apparent tolerance for the formal representation in public governments of minorities.

On the first scale of normative assessment, the Nation-specific approach may not generate a defined preference. However, the often stated concern of urban Aboriginal peoples that they have a clear and free voice in the determination of wider Nation-based initiatives, or alternatively in some other approach more suitable to an urban Aboriginal majority, would be of particular concern to the liberal democratic norm of consent of the governed. Against this general desire to support individual choice and entitlement is framed the apparent bias of federal government policies in the reinforcement of existing Indian Act distinctions. Also of concern would be the real potential that the process of re-establishing Nations could lead to a significant patch-quilt of citizenship within specific urban settings such that Aboriginal peoples lacking Nation citizenship would be left without adequate options for culturally relevant survival in a collective context, but instead become a new class of “internal refugees” much like non-status Indians, status Indians who have lost their band membership and many Métis people now feel in connection to the Indian Act system and the lack of a national approach to recognizing Métis communities. In this connection, the democratic liberal tradition would likely support an early adoption of clear rules of recognition and citizenship entitlement such as those advanced by the Royal Commission, and express grave doubts about the legitimacy of efforts to circumvent such steps.

On the second normative scale of reference, the Nation-specific approach would also likely find support, insofar as the continuity of some, though not all, specific national identities would seem dependent upon the full involvement of urban populations. Unlike all other cases of diversity in Canada, Aboriginal Nations have nowhere else to go, and with such a preponderance of their members living in urban areas, it would seem clearly relevant for urban governance to assist in and facilitate cultural protection and survival of Nation-level formations. However, particularly in relation to some of the larger national groupings, such as Cree, Mi’kmaq and Haudenasaunee, the tolerance level for urban non-participation might be high enough to result in normative concerns with a preference for exclusion driven by reserve-based pragmatics. In such cases, the liberal democratic tradition might give greater consideration to alternative approaches, such as communal governance, in order to afford urban Aboriginal people a realistic opportunity to retain their own cultural heritage even without the aid or participation of non-urban co-nationals.

Regarding the third consideration - that of choice and efficiency, the Nation-level approach would seem to find less clear favour, at least in those areas such as very large metropolitan centres where literally dozens of Aboriginal nationalities are represented. However, in many areas where there is a predominant Nation, a consideration affecting perhaps a plurality of the urban Aboriginal population in Canada, the Nation-specific approach would not appear to be overly difficult to achieve from the point of view of efficiency. At the same time, the precedent in Canada for accommodation through institutional autonomy by defined personality has been generally tied to considerations of cost and efficiency, such as in the “where numbers warrant” criteria for denominational or language

instruction in most provinces. Such an efficiency approach would have to tolerate considerable variation as between Aboriginal national groups in urban area given the often extreme variation in total sizes of different national populations.²⁰ In some cases a Nation-level approach to governance might have to explore common service arrangements through larger national populations, or city-wide Aboriginal authorities, if only to contend with the dictates of crisis reclamation for their cultural heritage as reflected in urban citizens.

2. Issues of Applicability

As indicated above, the applicability of the Nation-specific approach may be greater than might initially appear obvious. Keeping in mind that a Nation-specific approach involves a greater than twenty-fold reduction of complexity than now exists in the federal and provincially driven organization of Aboriginal community governance (or non-governance, as is mostly the case outside of reserves), there are immediate gains in the applicability of this option. Moreover, self-government in its most delegated form is all that is now provided for in the vast majority of the 630 or so Indian Bands on reserve or Crown lands and the approximately 250 Indian, Métis and Inuit majority settlements across Canada outside of Indian Act reserves. The potential for ameliorating these dependent forms of government, and extending even partial self-government governance to hundreds of more urban and rural minority communities cannot be regarded as at all insignificant.

Nevertheless, the applicability of the Nation-specific approach will vary. As a general commentary, the approach would seem most applicable in those areas where the preponderance of urban Aboriginal peoples are within their traditional or treaty areas and thus share a common national heritage. Indeed, in such areas the distinctions as between a Nation-specific approach and a city-wide communal approach may effectively disappear. As Peters (1995) notes, we have no accurate Nation-specific data for urban Canada (or, for that matter, even for reserve-based populations). Nevertheless, this general rule of thumb would likely include all of the Atlantic's urban areas (other than perhaps St. John's), most towns and cities in central and southern Quebec, (excluding Montreal), much of urban Ontario outside of Ottawa and the Toronto-Windsor corridor, most of the Prairie towns and cities outside of the very largest centres of Winnipeg, Calgary and Edmonton, and almost all of B.C. outside of the lower mainland and greater Victoria.

The second major consideration affecting applicability is tied, not to the social geography of Aboriginal peoples, but to the political capacity of Nations to actually reform themselves so as to make the sorts of representational and resource-expenditure decisions necessary for a Nation-specific approach to urban self-government to succeed. In particular, it might appear to the dispassionate observer that the Royal Commission's strong insistence for this approach, premised as it is on the need for a 25 year effort at national reconstruction, may simply be too long a time frame to achieve credible adherence. The effective time-frame required to re-



organize the political geography of Aboriginal peoples – now organized into several thousand local communities and associations – into less than a hundred political entities, may also be seen as too long by both urban and non-urban peoples who wish to get on with making decisions and salvaging their more immediate needs for local autonomy and cultural protection. This concern can only be accentuated by the present context of uncertain allegiance to the Royal Commission's vision as reflected in the federal inherent right policy and the lack of a clear response to date to the Commission's demand for federal leadership in coordinating national recognition and negotiating associated agreements on fiscal and jurisdictional frameworks.

It should also be added that in advancing Nation-specific approaches for urban governance initiatives, many reserve-based First Nation and provincial level Métis organizations have proposed as well that no urban initiatives should be supported unless these initiatives are brought under the guidance or political control of broader institutions (Opekokew, 1995; MMF, 1994, Chartier, 1994). Yet to date little has been written or publicly proposed by either reserve-based or provincial Indian or Métis groups about how their urban membership or those with potential Nation citizenship would express their franchise in common governance regimes, though as Helgason (1995) notes, this appears to be a growing focus of concern and commitment amongst some tribal level organizations in Manitoba, particularly in the North. To be sure, there appears to be a lack of clarity about citizenship identification and participation in this regard which, if not elaborated on, may merely under-score suspicions about the dedication to the principle of consent of the governed. As indicated above, the consent of those affected is fundamental to the normative underpinnings of both Aboriginal rights and liberal democratic traditions.

It is also worth noting that while the scope for Nation-specific initiatives seems broader than might first appear feasible, this is not to suggest that we are always or only referring to what are sometimes called "extra-territorial" applications of self-government by extension from reserves. It is equally likely and possible, completely within the Aboriginal rights framework, for urban Aboriginal communities sharing a common heritage to initiate self-government as a matter of right quite distinct from non-urban co-nationals. As long as sufficient numbers are held, there would appear to be no reason to treat urban communities any differently than non-urban ones, particularly within Aboriginal title regions such as B.C., southern and central Quebec and in the Maritimes.

A final note about practicality touches on the question of taxes. Aboriginal people outside of reserves (and indeed all Inuit and Métis as well as non-status Indians) pay taxes to provincial and municipal or regional governments, as well as to the federal government, while generally receiving little if any culturally relevant service in return (NCC, 1993). The Nation-based approach, as with each of the others and their many variations, would want to consider how to structure tax sharing or tax point reversion arrangements in cases where the Aboriginal population concerned is no longer receiving



the services on which the tax level or base is premised. While there are many precedents for diverting taxes to minority control within a wider public government setting, this issue will clearly prove rather more difficult to effectively administer outside of settings where there are sufficient numbers for the purpose of planning and delivering services, as well as for determining tax roll measures and the related involvement of urban citizens in decision-making.

3. Urban Aboriginal Views

The following highlights in summary form the views expressed on the practicality, and the desirability of this approach in the ten dialogue circles we held across Canada.

Views on the Nation-Specific Approach

<i>Focus Circle Site</i>	<i>Practicality</i>	<i>Desirability</i>
St. John's, Newfoundland	medium	high - Labrador Inuit medium - Mi'kmaq & Métis
Happy-Valley, Labrador	high	high
Val D'Or, Quebec	high	high
Toronto inner city	low	low
Winnipeg North End	medium	low
Selkirk, Manitoba	medium	medium
Edmonton, Alberta	low	medium - Métis low - Indian
Whitehorse, Yukon	medium	medium
Vancouver East End	low	low
Nanaimo, B.C.	medium	medium

To briefly place the above in context, it should be noted that the general reaction of participants in the various locales we visited appeared influenced by three dominant considerations. First was the experience in the urban area with claims of jurisdiction by non-urban political organizations, whether based in Nation-level institutions or otherwise. This factor had a pronounced influence in Happy Valley, Val D'Or, Winnipeg, Edmonton and Whitehorse. Second was the perceived successes and failures of prior efforts to organize urban governance structures and related programs and services, both for the Aboriginal population generally, for youth, and for specific national or other groups (such as based on status under the Indian Act). This was a pronounced factor in the case of St. John's, where programs and support services for Inuit based in Labrador far out-stripped those available to the predominately Mi'kmaq and Métis population in that city, as well as in Toronto, Winnipeg, Edmonton, and Vancouver, where very large and diverse institutions have emerged, often tied to the Friendship Centre movement, and provide services in a "status blind" environment that was clearly preferred as well in connection with future governance.

A final impact commented on was the influence of adjacent or over-arching land claims or treaty-based dialogues; a particular factor in Happy Valley for both Métis and Inuit, in Whitehorse in connection with the implementation of the Yukon First Nations final settlement and self-government implementation talks, and in Nanaimo, where the British Columbia Treaty Commission process



was felt to have a pronounced effect, if only in the context of local non-Aboriginal “back-lash” against governance initiatives.

B. URBAN COMMUNAL GOVERNANCE

We now turn to the second main approach, that of organizing urban governance by residence; i.e., by the community actually present within the urban setting itself, rather than by some extension or bridging effort between a sub-set of the urban population and rural, remote or reserve communities.

A great deal has been written on the many variations of such an approach (NAFC, 1993; NCC, 1993). Its major common features are the involvement of all urban Aboriginal residents, without regard to status, treaty, specific nationality or other criteria, in the formation of a common authority for governance over whatever institutions or jurisdictions may be capable of being negotiated, delegated, or successfully asserted as a matter of right.

1. Normative Analysis

a. Aboriginal Rights Considerations

As with our earlier consideration of the Nation-specific model, the Aboriginal rights approach sets a number of criteria for assessment of the communal approach: including the legitimate source of self-government as a right, the jurisdictional scope achievable, and the capacity of this model to assist in restorative justice.

Set against the recommendations of the Royal Commission, the common Aboriginal governance or communal approach would appear to be hampered in departing from the national presumption of sovereignty, a limitation that also appears in the face of what the Courts have stated in relation to both Aboriginal rights and title. We have already noted how the federal government’s interpretation of section 35 appears to depart from the nationality presumption of the Commission and as reflected in Court rulings. It is therefore more difficult to determine the federal policy’s normative preference, or lack thereof, as between any particular approach. Federal practice seems above all to utilize decidedly “non-inherent” language and procedures for negotiation when dealing with self-government outside of exclusive land-bases, notwithstanding the nominal label used for the policy.

The second point of assessment concerns the jurisdictional capacity for an urban approach to encompass important rights and to address essential features of Aboriginal communal existence. As with the criteria of source, the Aboriginal rights tradition would seem to find less obvious relevance for urban communal governance than one based on a specific Nation, precisely because of the apparent use of racial or at least multi-national criteria for inclusion and political citizenship. The Courts, however, might find a communal government approach to be not so distant from the subject matter of section 35 so as to strip it of enforceability. Particularly where a preponderant majority of urban Aboriginal people shared a common Treaty history (though not perhaps nationality as such), such as in Treaty #8 in Edmonton or Fort MacMurray, or Aboriginal title interests (as in the Maritimes), it would not appear difficult to assert

both communality and nationality as the basis for a city-wide approach.

The capacity to utilize common Nation and tribal histories may extend to the point of bridging Indian and Métis divisions in some cases, particularly given the shared affinity and treaty-experience of many First Nations and Métis people in the Prairies, and as is the case for the Inuit and Inuit-Métis in Labrador. Indeed, in ruling on the entitlement of Métis to hunt and fish in the Prairies, several judgments (albeit at the lower level) have stressed that Métis share in common the harvesting rights secured to Indians in the Prairies under the Constitution Act of 1930 where they share in the general social and economic lifestyle of Indian people. As the Supreme Court has noted on a number of occasions, the recognition of Aboriginal rights is not intended to be “frozen”, but must be permitted to evolve in accordance with contemporary needs and contexts. The long association with urban places by specific Aboriginal communities, together with the often forced mobility to urban centres of many others, could well lead the Courts to recognize important fields of self-government jurisdiction as residing within urban Aboriginal communities, such as in the areas of family law, identity maintenance and education.

Nevertheless, for areas in which the urban Aboriginal population is overwhelmingly non-local and multi-national, it would seem likely that a communal form of government would have a more difficult time in asserting contextually relevant entitlements under section 35 as a collectivity in its own right, as opposed to claiming such powers on the basis of agreement with communities organized on a Nation level or by extension from the latter. In this context the option of entering into an agreement with the host Nation in whose territories such urban Aboriginal communities are located has suggested itself in a number of proposals, including that of the Royal Commission’s.⁵⁸

With regard to restorative justice and its importance to the Aboriginal rights approach, the pursuit of communal self-government within a particular urban setting could be seen as either detrimental to, or promoting of, the promise of section 35, and thus seems worthy of more refined assessment and dialogue to reach a broader consensus. Certainly if the emergence of urban government forms were to result in the further de-nationalization of Aboriginal peoples, then the Aboriginal rights framework would be justified in opposing it. Moreover, if governments were to somehow adopt broad, non-national criteria for the organization of governance, whether based on land-based residence, Indian Act status or other arbitrary grounds, this too would be a definite cause for concern. However, there is little evidence in the literature to suggest the development of some sort of “pan-Aboriginality” is either the purpose or the necessary outcome of any of the initiatives to date that have been organized on an inclusive or city-wide basis by urban Aboriginal communities themselves. On the contrary, and as confirmed in our own field studies (as reported at Annexes 2 and 3) those communities most actively engaged in the development of common urban authorities appear to have the revival and expansion of Nation



specific services and identities equally if not more prioritized as initiatives otherwise organized (Maracle, 1995; Clatworthy, 1995).

b. Democratic Liberalism

The urban communal governance approach would seem, from this perspective, to find a fair degree of support across the three main considerations involved. Certainly the use of broadened citizenship criteria guaranteeing the participation of all Aboriginal urban residents (as well as potentially others, such as rural or reserve persons within commuting distance) strikes a chord of normative approval within the democratic liberal tradition. To be sure, caution must be expressed such that relevant and achievable choices in relation to more specific national identities are not thereby suppressed. However, as noted above, legitimate concerns about the imposition of a new “melting pot” need to be rooted in demonstrated experience that, at least on the basis of the existing literature, does not seem particularly evident.

Regarding the achievement of substantive equality, it appears as well that democratic liberalism would favour the urban communal approach in light of the historic lack of equitable access by urban Aboriginal populations, however variable in national make-up, to culturally relevant autonomy and services. This has been a particularly severe problem for non-status Indians and Métis historically, and appears to be of growing concern to “status” members of First Nations who have experienced a drop or decline of access to programs and services administered from the reserve base.⁵⁹ This concern with providing an effective measure of substantive equality, between Aboriginal settings as much as between Aboriginal and non-Aboriginal ones, is perhaps of special importance during a transition to a wider, Nation-specific regime. There may also be particular value to balancing developments in urban areas with those happening elsewhere, such as on reserve or through treaty land entitlement or comprehensive land claims talks, such that both urban and non-urban communities maintain some degree of parity in capacities and services from which to work out more refined, Nation-specific relationships for the longer term. Certainly concerns have been expressed in the context of fast-paced non-urban developments now being experienced in such provinces as Manitoba, that a lack of parity could prove fundamentally harmful to the substantive equality concerns of urban Aboriginal communities (Graham, 1995).

In relation to the third factor of efficiency, it would seem obvious that city-wide authorities would find preference on grounds not only of efficiency but also their fit with more familiar precedents for non-territorial accommodation, the denominational or linguistic communities. Economies of scale may promote support for larger rather than smaller urban authorities from adjacent rural and reserve communities as well. Larger urban authorities could strengthen the capacity to provide more effective educational and other services to adjacent non-urban residents, while offering a wider pool of scarce traditional resources for both urban and adjacent land-based communities.

Effectiveness or efficiency may tend to offer particular advantages under the communal governance model where Aboriginal population densities are low or residually fragmented such as to make cost-based concerns about tax burdens on adjacent non-Aboriginal citizens prominent. The democratic literature seems not to hold specific normative preferences as between personality-based and territorial accommodations (generally preferring the former for education and other culturally relevant services, while supporting the latter for representivity purposes), and would likely be concerned only with ensuring that where governance is organized on a city-wide basis for all Aboriginal people, this is the most relevant level of organization for the services, programs and jurisdictions concerned. At the very least, it is likely that the liberal democrat would insist that the people most directly affected - those living in the urban area, form a consensus on what level of relevance that is.

2. Issues of Applicability

Based on considerations of scope and general practicality, the organization of city or town-wide authorities, inclusive of all Aboriginal residents, may have the widest applicability of all models or approaches, for three main reasons. First, it is only in very large centres with very large Aboriginal populations that a significant variation as amongst Aboriginal national backgrounds may pose a major difficulty for smaller national groupings to seek or obtain culturally relevant services and control over such matters as education. These are by no means insignificant exceptions, given the number of people involved. However, in these cases special arrangements with co-national majorities elsewhere would be applicable, but more importantly, would be generally more doable. For many of these larger cities, such opting out arrangements could readily be adopted at the choice of those concerned without in any way impairing the wider capacities of the remaining population to organize effective and relevant governance.

Secondly, and following the same train of logic, the vast majority of urban centres have Aboriginal populations that are predominately homogenous culturally, albeit with divisions based on often irrelevant criteria such as status under the Indian Act. While Métis and Indian distinctions would appear most prevalent and in need of some level of accommodation, intra-Indian diversity would seem rather less significant in many but the largest of urban areas. Thus a common, city-wide authority would simultaneously provide the greatest concentration of urban Aboriginal numerical significance (of tremendous importance to obtaining resources), not significantly embrace irrelevant organizational criteria, and be able to ensure that the least number of Aboriginal people involved are left unrepresented or un-served.

A third practical consideration relates to the organization of revenue raising for certain jurisdictions, such as schools. At the city, town or even regional municipal level, where school boards most frequently operate, a common Aboriginal authority is most likely to be able to organize and implement an effective tax-roll. Alternatively, a common authority is similarly better able to negotiate local community control over school curricula or teaching methods and personnel



with existing school boards where the total Aboriginal numbers involved are less than needed to justify a distinct school system, or where opposition to the diversion of the Aboriginal tax base is hotly contested by public or separate school boards or their voterships.

3. Urban Aboriginal Views

The following highlights in summary form the views expressed on the practicality, and the desirability of the urban communal governance approach in our ten dialogue circles.

Views on the Urban Communal Governance Approach

<i>Focus Circle Site</i>	<i>Practicality</i>	<i>Desirability</i>
St. John's, Newfoundland	high	medium - Mi'kmaq/Metis low - Labrador Inuit
Happy-Valley, Labrador	medium	medium
Val D'Or, Quebec	medium-high	medium
Toronto inner city	high	high
Winnipeg North End	high - First Nation medium - Métis	high - First Nation medium - Métis
Selkirk, Manitoba	high	high
Edmonton, Alberta	high	high
Whitehorse, Yukon	medium	high
Vancouver East End	high	high
Nanaimo, B.C.	medium	high

As with our earlier assessment of urban Aboriginal perspectives as reflected in the dialogue circles, the above merely provide a qualitative sense of direction, rather than any sort of definitive or statistically significant indication of opinion on either practicality or desirability. As may be inferred from the above tabulation of responses to the questions placed to dialogue circle participants, a number of influences are at play in relation to the urban communal governance approach. These include:

- ◆ the differential experience to date with governmental support for different populations, based mostly on federally determined eligibility criteria for program and service funding, a factor with influence across the country, but particularly noticeable in Newfoundland and Labrador (despite the lack of the Indian Act's nominal application), Val-D'Or, Winnipeg, Selkirk, Vancouver and Nanaimo;
- ◆ the general experience of inclusion and non-discrimination associated by respondents with urban institutions now in place, and particularly those tied to Friendship Centres, which have an explicit mandate not to discriminate on grounds of federal Indian Act status, and;
- ◆ the sense that urban communal governance need not, and should not, intrude upon family, clan or Nation ties across residential borders, a very strong position amongst participants in Labrador, Yukon and in B.C., but one with a greater sense of entitlement and certainty in the Prairies and central Canada.

C. TERRITORIAL/MAJORITY MODELS

The third major approach to urban governance as expressed in the literature involves the use of territoriality - whether through the establishment of federal enclaves or reserves within urban settings, or in the concentration of at least a portion of the Aboriginal community in urban neighbourhoods as local majorities. There are several precedents for the establishment of urban reserves in recent years in connection with the settlement of treaty land entitlement in Saskatchewan, a precedent that appears to be on the verge of being replicated in Manitoba. However, this technical or jurisdictional accommodation of non-urban economic development needs has yet to embrace urban Aboriginal communities, whether those holding membership in the non-urban Bands concerned or otherwise.

1. Normative Analysis

a. Aboriginal Rights Considerations

The Aboriginal rights approach would very clearly assert land as being of critical importance to Aboriginal cultural survival, and indeed to spiritual identity of any particular Aboriginal group. The Royal Commission, along with the Courts, has also established the source of Aboriginal rights, whether in particular activities or of self-government, as vesting in societies with clear communal ties to the land. Nevertheless, in relation to the normative foundation for a right of self-government, the Aboriginal rights approach would not clearly set the formation of urban land bases as either necessary or sufficient to establish governance as a matter of right. Keeping in mind the Commission's objective of attaining the re-establishment of Nations, whose communities may be on or off exclusive land bases, there would appear to be no normative primacy assigned this option, or indeed that of forming local neighborhood majorities.

In relation to the jurisdictional scope of governance, it is clear, however, that any Aboriginal community occupying an exclusive land base or forming a clear majority within an otherwise public government boundary, will be far more enabled to exercise governance in relation to matters that a more dispersed community could not feasibly address, such as the adoption of enforceable land tenures unique to that group and associated succession rules which may be of considerable importance to the maintenance of that group's unique culture. Thus land-based jurisdiction, such as established through a legal enclave under federal law, would clearly facilitate the social and normative continuity of the Aboriginal community. Other options could meet these cultural tests for the scope of governance, but with greater practical difficulty.

Additional normative support for this option would flow from its likely congruence with the Nation-specific model of urban governance, particularly in connection with opportunities for establishing urban residential reserves, or the affording of urban local majorities, with jurisdictional recognition during the settlement of either broader self-government or land claims agreements, such as in B.C.. (e.g., UBCM, 1995). As both land claims and treaty-based negotiations relating to either self-government or land quantum short-falls are organized predominately in relation to common national or treaty-based boundaries and citizenship,



this affords urban communities with national connections to press more effectively for land or communal accommodation as part of the negotiation. However, this presumes the full and effective involvement of urban communities in such negotiations, which is not at present obvious.

Beyond the linkage to wider self-government or land claims negotiations just noted, the capacity of this model to assist in restorative justice would not seem to be significantly greater than for other options. Indeed, there may be normative concerns with the potential that a mis-placed identity may form around a particular land-base established for reasons of jurisdictional convenience. There is a strong administrative and political, as well as human tendency to reinforce social boundaries around otherwise non-social territorial markers, such that the task of re-integrating Nations might simply be complicated by responding to disparities through additional reserve fragmentation of Nations. After all, there is a clear association in public discourse between the term “First Nation” and those communities residing on federally established reserves, a pattern of social and political mis-identification that the Royal Commission found in need of forceful rectification.

As opposed to the establishment of jurisdictional enclaves such as federal reserves, the development of local Aboriginal majorities would not appear to carry the same degree of normative relevance for the Aboriginal rights approach. The reasons for this would seem to stem from the relatively limited capacity within provincial (and certainly municipal) legislative competence to accord even very dominant local majorities with jurisdictional opportunities to govern as Aboriginal communities. This would seem clearly to be an exclusive area of Federal jurisdiction, and thus the creation of majorities itself would not seem to accommodate what the option may presume would result in expanded and uniquely Aboriginal governance. The Courts have indicated that Aboriginality is not tied merely to lands, since the “core of Indianness” or “Aboriginality” is similarly an area of exclusive Federal competence and may be quite distinct from land-related matters. The key issue, then, would seem not to be land, or local majorities, but rather the federal jurisdiction (and potential legal obligations) associated with ensuring that Aboriginal communities are treated as such.

Where this option is of greatest significance is in the ease with which territorial boundaries and associated majorities can be used to prompt federal action. Therefore, while the normative underpinnings within the Aboriginal rights tradition give broad territoriality some importance (as opposed to exclusive land-base assumptions), it is in the simplicity (if not rigidity) of the approach in the eyes of other governments - already territorially exclusive in many respects - that this model appears to find its highest value.

b. Democratic Liberalism

As our discussion in Part II has indicated, the option of territoriality, or the formation of local majorities, finds the least discomfort with the accommodation of liberal democratic norms of equal citizenship. Where a territorial approach leads to a fully public government in

which all persons have democratic participation, it would fall solidly within the tradition of liberal democratic accommodation of diversity. The adjustment of boundaries and the "creation" of majority status for erstwhile minorities has not been unchallenged - particularly in cases where the second aspect of equality, regarding the treatment of differences, is forgotten or down-played. However, it is clearly a favoured preference in the achievement of substantive justice or equality, precisely because of its opportunity to nevertheless afford all citizens equality within a particular juridical space.

The formation of a reserve, as opposed to a local majority, may perhaps be the cause of greater concern within this tradition, if only because of the precedents on most existing Indian Act reserves of only affording resident band members with political citizenship, a matter that is of growing significance in urban or near-urban areas where increasing numbers of non-Aboriginal peoples are obtaining services from, and paying taxes to, reserve governments in which they have no franchise.⁶⁰ It may be of particular relevance to this option's application that solutions to this problem can be found that do not undermine the case for new urban community reserves.

2. Issues of Applicability

The territorial/majority option has perhaps the least obvious scope of application in urban Canada, for three reasons. First is the degree to which urban and non-urban communities sharing a common nationality are involved fully in opportunities to negotiate specific accommodations for the former as part of the task of reconciliation. Whether in traditional title areas such as in Atlantic Canada, central-southern Quebec or in B.C., the reinforcement of largely irrelevant boundaries as between on and non-reserve First Nation people has not yet been escaped, such that decisions about new land and jurisdictional arrangements that are inclusive appear rare indeed.

A second limitation relates to resistance from local non-Aboriginal populations, and municipal and provincial politicians, concerning the loss of lands, in the case of reserve acquisition, and the loss of jurisdiction, in the case of local majorities seeking recognition for matters beyond municipal or provincial jurisdiction. While this resistance may stem more from perceptions of the "natural place" of Aboriginal peoples that have little or no foundation, it is nevertheless likely to be a real obstacle that could take considerable effort to overcome. Moreover, where a Nation-specific approach is allied to this approach, a secondary back-lash may emerge in the form of concerns that the option may further fragment the Aboriginal capacity to re-dress common service, program and cultural objectives of those not directly benefited through membership in a Nation-specific initiative.

A third disability of this option stems from the socio-demographics of many urban settings, characterized both by a fair degree of residential dispersion (particularly in larger cities) and by high levels of mobility. Added to this is the possible disinclination of many urban Aboriginal residents to re-locate themselves onto separate enclaves or into residential neighbourhoods, whether this is due to entrenched organizational biases against such initiatives (e.g.,



in relation to urban Native housing programs) or from concerns that the establishment of such new boundaries would merely accentuate, rather than reduce, patterns of social discrimination already endemic within many urban settings.

The option of urban reserves and local majorities nevertheless affords a significant jurisdictional advantage - levered by convenience as much as by normative force - over other approaches. Therefore, whether pursued in a Nation-specific fashion (which appears most likely) or in order to provide a more inclusive option for Aboriginal communities, this approach merits considerable attention, if only because of the apparent disinclination within governments, and the wider society, to consider more flexible forms of accommodation for Aboriginal urban governance.

3. Urban Aboriginal Views

Views expressed during the course of our study, through reference to the literature generated from urban organizations, in responses to surveys and in our dialogue circles, generally regarded the use of territoriality with considerable caution, if not out-right opposition. This was particularly the case in connection with putting any reliance on neighbourhood majorities (as opposed to establishing urban reserves), though the latter were also recorded as being of quite low priority.

Views on the Territorial/Majority Approach

<i>Focus Circle Site</i>	<i>Practicality</i>	<i>Desirability</i>
St. John's, Newfoundland	low	low
Happy-Valley, Labrador	low	medium - Inuit/Innu low - Métis
Val D'Or, Quebec	low	low
Toronto inner city	low	low
Winnipeg North End	medium	low
Selkirk, Manitoba	low	low
Edmonton, Alberta	low	medium
Whitehorse, Yukon	medium	medium
Vancouver East End	low	low
Nanaimo, B.C.	low	medium

The factors most noticeable in motivating the above reactions amongst our dialogue circle participants were concerns of negative back-lash in the non-Aboriginal community, restraints on mobility within urban areas, and a concern with the position of some non-urban based groups that any reserve or majority-based approach be "properly authorized" by the non-urban "authority", as opposed to reflecting the democratic will of the urban community itself. The experience in the Prairies with treaty-land based, and essentially "peopleless" reserve acquisition in Saskatchewan, and intensive discussions on the same topic in Manitoba, also contributed to a low score for this approach.

IV THE CHALLENGE OF ENGAGING YOUTH IN GOVERNANCE



The primary focus of this paper has been to sponsor dialogue on the broad approaches to urban Aboriginal governance - taking into account normative considerations, issues of practical application, and the desires and opinions of urban Aboriginal people. In this Part of the paper we supplement our broader focus with attention on youth - conventionally defined as persons under the age of 25. Given their demographic weight within the Aboriginal community, whether urban or otherwise, and the unique challenges they are encountering in maintaining both collective and individual identities, we believe more structured efforts should be generated to tailor plans for governance and new program and service initiatives directly for, and with, Aboriginal youth.

A. SOCIO-DEMOGRAPHIC OVERVIEW

Based on Census data, there was a total of 424,210 Aboriginal persons under the age of 25 as of June, 1996. Of this total, most were under the age of 15 (at 280,415, or 5% of the total non-Aboriginal youth population under 15), while there were 143,795 between 15-24 (or 3.9% in comparison with the non-Aboriginal 15-24 population).

The NAFC, in partnership with the Canadian Council on Social Development, is currently undertaking a study on urban poverty amongst Aboriginal youth. The following charts highlight some of the preliminary findings of that project of relevance to our focus on youth and governance.

Table IV.1
Urban Aboriginal and Non-Aboriginal Youth Poverty

<i>Province</i>	<i>Non- Aboriginal Youth</i>	<i>Poor Non-Aboriginal Youth</i>	<i>% of Non- Aboriginal Youth that is poor</i>	<i>Aboriginal Youth</i>	<i>Poor Aboriginal Youth</i>	<i>% of Aboriginal Youth that is poor</i>
Canada	9,248,935	2,122,850	23.0	254,680	126,255	49.6
Newfoundland	190,755	50,620	26.5	6,260	1,915	30.6
PEI	47,715	8,750	18.3	370	135	36.5
Nova Scotia	295,665	71,465	24.2	2,455	915	37.3
New Brunswick	243,770	56,040	23.0	2,430	1,130	46.5
Quebec	2,274,130	587,115	25.8	17,740	7,045	39.7
Ontario	3,526,530	764,370	21.7	49,455	21,180	42.8
Manitoba	319,965	68,020	21.3	41,025	24,395	59.5
Saskatchewan	300,075	58,090	19.4	41,985	24,765	59.0
Alberta	911,070	195,520	21.5	47,450	23,575	49.7
British Columbia	1,139,265	262,855	23.1	45,505	21,195	46.6

Source: 1996 Census - Canadian Council on Social Development - Urban Poverty Project



Table IV.2
CMA: Aboriginal and Non-Aboriginal Youth Poverty

<i>CMA</i>	<i>Non- Aboriginal Youth</i>	<i>Poor Non- Aboriginal Youth</i>	<i>% of Non- Aboriginal Youth that is Poor</i>	<i>Aboriginal Youth</i>	<i>Poor Aboriginal Youth</i>	<i>% of Aboriginal Youth that is Poor</i>
St. Johns	61,705	15,325	24.8	300	85	28.3
Halifax	110,225	26,420	24.0	800	220	27.5
Cape Breton	38,445	11,935	31.0	335	185	55.2
Saint John	42,860	10,695	25.0	300	120	40.0
Chicoutimi-Jonquiere	54,795	11,425	20.9	425	165	38.8
Quebec	209,755	49,735	23.7	920	545	59.2
Sherbrooke	49,665	13,120	26.4	145	110	75.9
Trois Rivières	43,615	11,435	26.2	185	85	45.9
Montreal	1,047,210	326,095	31.1	3,675	1,790	48.7
Ottawa-Hull	333,160	79,770	23.9	4,465	1,965	44.0
Oshawa	96,130	14,990	15.6	940	200	21.3
Toronto	1,397,705	355,400	25.4	5,970	2,245	37.6
Hamilton	200,440	45,400	22.7	2,465	1,215	49.3
St. Catharines-Niagara	116,370	23,640	20.3	1,760	825	46.9
Kitchener	135,175	25,660	19.0	1,115	425	38.1
London	133,485	30,540	22.9	2,275	1,415	62.2
Windsor	94,055	18,335	19.5	1,085	505	46.5
Sudbury	53,210	11,525	21.7	2,030	1,130	55.7
Thunder Bay	37,785	5,955	15.8	3,295	1,775	53.9
Winnipeg	200,210	47,845	23.9	22,935	15,640	68.2
Regina	63,085	11,545	18.3	7,735	5,410	69.9
Saskatoon	74,010	17,695	23.9	9,235	6,505	70.4
Calgary	277,830	65,050	23.4	7,125	4,230	59.4
Edmonton	291,485	71,830	24.6	15,350	9,355	60.9
Vancouver	562,250	152,195	27.1	12,380	6,615	53.4
Victoria	83,900	17,035	20.3	2,495	1,195	47.9

Sources: 1996 Census - Canadian Council on Social Development - Urban Poverty Project

Table IV.3
Friendship Centre Cities: Aboriginal and Non-Aboriginal Youth Poverty

<i>City</i>	<i>Non- Aboriginal Youth</i>	<i>Poor Non- Aboriginal Youth</i>	<i>% of Non- Aboriginal Youth that is Poor</i>	<i>Abori- genous Youth</i>	<i>Poor Abori- genous Youth</i>	<i>% of Aboriginal Youth that is Poor</i>
St. Johns	34,705	10,745	31.0	215	85	39.5
Halifax	33,040	11,950	36.2	210	130	61.9
Cape Breton	38,450	11,935	31.0	335	180	53.7
Saint John	23,180	8,245	35.6	200	85	42.5
Quebec	43,535	17,060	39.2	385	255	66.2
Sherbrooke	23,595	8,645	36.6	120	110	91.7
Trois Rivières	13,610	5,055	37.1	55	35	63.6
Montreal	284,615	144,260	50.7	1,055	700	66.4
Longueuil	40,740	14,970	36.7	140	65	46.4
Laval	105,790	25,735	24.3	205	135	65.9
Gatineau	36,170	7,795	21.6	520	285	54.8
Chicoutimi	21,110	4,560	21.6	145	75	51.7
Gloucester	37,890	6,975	18.4	530	120	22.6
Nepean	38,925	7,775	20.0	375	110	29.3
Ottawa	92,500	37,595	40.6	1,325	825	62.3
Oshawa	46,525	10,115	21.7	555	195	35.1
Vaughan	50,575	6,330	12.5	85	30	35.3
Markham	63,505	10,500	16.5	70	10	14.3
Richmond Hill	35,935	7,325	20.4	80	40	50.0
Scarborough	184,295	62,695	34.0	850	370	43.5
Toronto	170,435	62,425	36.6	1,255	690	55.0
East York	29,345	9,755	33.2	115	40	34.8
North York	184,455	67,475	36.6	540	240	44.4
York	45,560	17,760	39.0	310	185	59.7
Etobicoke	99,175	31,315	31.6	380	160	42.1
Mississauga	195,425	38,645	19.8	565	140	24.8
Brampton	102,145	16,855	16.5	385	95	24.7
Oakville	44,530	5,120	11.5	135	40	29.6
Burlington	43,590	5,155	11.8	220	30	13.6
Hamilton	100,885	34,515	34.2	1,875	1,120	59.7
St. Catharines	40,525	9,305	23.0	555	260	46.8
Cambridge	36,945	6,320	17.1	140	55	39.3
Kitchener	61,650	13,595	22.1	660	250	37.9
Windsor	64,170	16,365	25.5	980	485	49.5
London	109,020	27,310	25.1	2,060	1,330	64.6
Sudbury	28,380	7,805	27.5	1,510	1,000	66.2
Thunder Bay	33,970	5,690	16.8	3,180	1,770	55.7
Winnipeg	183,480	46,665	25.4	22,020	5,520	25.1
Regina	58,305	11,205	19.2	7,575	5,340	70.5
Saskatoon	64,215	16,405	25.5	9,010	6,460	71.7
Calgary	257,910	63,200	24.5	6,825	4,170	61.1
Edmonton	199,135	61,695	31.0	12,910	8,860	68.6
Surrey	107,565	27,205	25.3	2,430	1,350	55.6
Richmond	48,615	14,740	30.3	495	190	38.4
Vancouver	134,905	50,340	37.3	4,025	2,955	73.4
Burnaby	52,800	18,325	34.7	1,050	495	47.1
Coquitlam	33,910	8,900	26.2	635	210	33.1
Victoria	17,005	6,280	36.9	775	480	61.9

Source: 1996 Census - Canadian Council on Social Development - Urban Poverty Project



These data on urban poverty amongst Aboriginal youth, in tandem with the broader demographics provided at Part I above, lead to the following conclusions:

- ◆ The Aboriginal population is much younger than the general population. The average age of the Aboriginal population in 1996 was 25.5 years, 10 years younger than the average of 35.4 years in the general population.
- ◆ Children under 15 account for 35% of all Aboriginal people, compared with only 20% of Canada's total population.
- ◆ The proportion of young people aged 15 to 24 was also greater among the Aboriginal population than in the total population. These young people represented almost one-fifth (18%) of all age groups within the Aboriginal population, compared with 13% in the general population.
- ◆ Although the total Aboriginal population represented about 3% of Canada's total population, Aboriginal children under age 15 comprised almost 5% of all youngsters in this age group. In both Manitoba and Saskatchewan, Aboriginal children under 15 accounted for 20% of all youngsters in this age group. It is projected that they could account for up to 25% by the year 2016 in Manitoba and Saskatchewan.
- ◆ The Aboriginal population is growing more rapidly than the general population. Although the fertility rate among the Aboriginal population is declining, the Aboriginal population continues to grow more rapidly than the total population. Census data showed that there were 491 Aboriginal children aged under five for every 1,000 Aboriginal women of child bearing age in 1996. This was about 70% higher than the ratio for the total population, which was 290 children per 1,000 women.
- ◆ Given the number of young children, large increases will occur in the next decade in the Aboriginal youth population aged 15 to 24. In 1996, there were about 144,000 in this age group. By 2006, it is projected to reach 181,000, up 26%.
- ◆ Almost one-third (32%) of Aboriginal children under the age of 15 (in Census families) lived in a lone-parent family in 1996, twice the rate within the general population. Less than half (43%) in this age group lived in a married couple family, while one-quarter lived in a common-law couple family. Not all Aboriginal persons under 15 lived in Census families. About 11% did not live with their parents. The share of those under 15 living in a common-law couple family was almost 2 1/2 times the rate within the general population.
- ◆ Aboriginal children (in the Census families) were much more likely to be in a lone-parent family if they lived in one of Canada's census metropolitan areas (CMAs). In Winnipeg, Regina and Saskatoon, for example, about half lived with a single parent. As a result, about 30% of all children in lone-parent

families in these cities were Aboriginal children.

- ◆ About one-quarter (26%) of Aboriginal youth aged 15 to 24 reported an ability to converse in an Aboriginal language. Knowledge of an Aboriginal language was most widespread on Indian reserves and settlements (56%), and lowest in urban areas, both in CMAs (11%) and other urban areas (18%).
- ◆ On average, Aboriginal youth suffer over twice the incidence of poverty as non-Aboriginal youth. While this reality varies by region (growing to three times the poverty incidence in Saskatchewan, compared to only 5% higher incidence in Newfoundland), the urban and especially inner city situation appears as bad or worse than remote and reserve areas within regions: a problem that seems to be encountered across the country, and not merely in the Prairie provinces, as might appear from the provincial-level data.

In summary, the urban Aboriginal youth population is growing at a rate faster than any other demographic group in the country, and will continue, over the next several decades at least, to make up a solid 50% or more of the total Aboriginal population.

Education, income, health and other social data on urban Aboriginal youth are available in a limited form as a result of the methods employed for the 1991 post-Census Aboriginal Peoples Survey. Analysts are looking to the second Aboriginal Peoples Survey, to be carried out in 2001, for a much more detailed picture (these data are not, however, expected for public use until 2003). In the meantime, our own documentation, survey and focus circle studies - in which youth and youth issues were most prominent - disclose a very real likelihood of grim consequences for the fabric of both Aboriginal communities and Canadian society at large unless clear, coordinated and innovative measures are mounted to engage urban Aboriginal youth in community governance, social reform and personal and community wealth creation.

B. ORGANIZATIONAL AND ACCOUNTABILITY ISSUES

A variety of organizational issues facing youth became crystallized for us in the course of assessing the project documentation, survey and site studies conducted for this project. Principal amongst these, as illustrated at Annex 2 (Urban Youth Program Documentation and Survey Analysis) is that there are very few sustained or sustaining institutions in urban centres dedicated to providing Aboriginal youth with a focal point for participation in governance, let alone in accessing relevant program and service assistance.

The range of success, and failures, suggests that a variety of considerations and factors are at play in sustaining youth involvement in successful programs. Some significant population areas have virtually no youth programming in place, and evince frustration at the lack of take-up, while at the same time other centres (Prince George being a notable example) are mounting truly impressive programs and projects, with budgets in the millions annually.

If there is one conclusion to be drawn from our study - a conclusion that reinforces findings from earlier research, it is that dedicated youth institutions, that are answerable to and run by youth themselves, are desperately needed. Over the past five years, federal, provincial and municipal funding of even short-term youth projects have declined with the wider preoccupation with deficits and debt. While this general re-allocation of resources may have appeared valid given the overall aging of the Canadian population, it has resulted in almost punishing incapacities for urban (and no doubt rural, remote and reserve) communities facing a virtual explosion of both youth and demands for unique youth services. The federal government's recent announcement of a Urban Multi-purpose Aboriginal Youth Centres initiative would seem of terrible importance to establishing an on-going infrastructure for engaging youth in wider urban governance projects.

1. Current Organizational Forms

The dominant structure of youth initiatives encountered in our survey and focus circle research is best characterized as "seasonal". In this respect youth appear to be regarded by funding agencies, and perhaps as well by urban and other Aboriginal institutions, as inherently temporary and transitional. No doubt the natural progression of children through youth to adulthood assists in this orientation. However, the very lack of permanence and predictability of youth institutions and programs must generate considerable frustration and a sense of mis-placed reliance on either mainstream or Aboriginal community institutions. Urban youth in particular are least availed of alternative traditional structures for social, physical and psychological support. In the absence of such traditional structures (such as through extended families, clans, etc.), and in the absence of a sure institutional anchor or set of anchors in the Aboriginal urban community around which to gravitate, a significant social deficit is emerging. This deficit could prove exceedingly hard to eliminate as the current generation of youth progresses to adulthood and raise their own families.

Assimilation into the "mainstream" does not appear to be a valid or realistic option, no matter how much this option is stressed in the literature and in community discussions as either the "hidden agenda" of non-Aboriginal society, as a consequence of inaction, or as an immutable "reality". Over and above the findings of academic, governmental and Aboriginal forays into the arena of urban youth, our own studies and discussions would strongly suggest that urban Aboriginal youth are not only growing in their insistence on being served within a cultural milieu as Aboriginal people, but are likewise growing in their impatience with both non-Aboriginal and Aboriginal institutions that delay or frustrate this goal. At the same time, it is quite apparant from the literature, and from our own study, that there is a real and present danger in many urban centres of the entrenchment of a permanent class of Aboriginal people who are not only culturally alienated from their traditions, languages and cultures, but who are likewise being dispossessed and stripped of access to the lands, resources and traditional cultural resources essential to the maintenance and re-creation of Aboriginal cultural integrity.

Aboriginal institutions of governance have only recently begun to attempt the development or restoration of decision-making structures that are holistic in their inclusion of youth. This is apparent even for Friendship Centres, notwithstanding the formal requirement of the movement at all levels to have Aboriginal youth directly involved in the legislative and executive, as well as democratic selection processes of decision making. It would appear even more significant for other organizations and institutions encountered during the course of our research, in which the full complement of youth programming, control and leadership recruitment appears hesitant indeed in urban application.

2. Principles of Organizational Attraction

It was noted in the course of the study that the one constant organizational attraction for all youth is recreation, followed closely by life-skills, educational and employment services. Organizing Aboriginal youth activities in association with schooling was of particular relevance to all concerned, although present in only a few of the larger centres on an on-going basis (usually where the local Aboriginal community had effectively taken over local schools, as in Winnipeg). Differential access now present within the urban Aboriginal community in relation school-based Aboriginal programs (often involving federal funding of only "status" Indian band member access to non-reserve schools under certain conditions) was almost universally held as unnecessary divisive.

In probing the relevance of different success criteria or institutional attractants, an un-anticipated finding we wish to call attention to is the "holistic", peer-based and street survival anchors common to each of the priorities listed by youth. We cannot help but note, as well, that it is these same attractions that may be so key to the formation and maintenance of negative organizations amongst urban Aboriginal youth, such as street gangs. It would seem a truism that, in the absence of alternative structures, the problem of street crime and youth recruitment into organized gangs will only continue. After all, street realities and the necessities of survival will naturally force youth at risk into as secure and reliable a psychological, physical and social setting as possible. The fact that this too often means organized gangs engaged in criminal behavior is not a reflection on Aboriginal youth so much as on the failure of Canadian society to afford, and provide, alternatives.

A second major attraction for youth is accountability, and control. The youth we encountered in this project appear quite determined that they are capable of exercising decision-making authority over programs and services, as well as fully able to represent their own interests within broader community decision-making structures. Moreover, there is a pregnant concern amongst youth - demonstrated with considerable uniformity across the country - that while cultural and traditional orientations must be enhanced, divisions within and between the youth population on irrelevant grounds such as "status" should not play a role. In this youth are quite concerned that older generations are perhaps too wed to imposed distinctions, and less able to embrace more sharing and inclusive models of governance.



A final dominant factor in attracting youth involvement is cultural relevance. A constant refrain in most of our circles, backed up by the documentation of program success indicators, was the desire to have programs and services delivered in the context of traditional practices, customs and beliefs. The role of elders, medicine people and spiritual guides was of particular interest across the country.

V RE-FASHIONING THE DIALOGUE



This focus paper has attempted to introduce some different and contrasting view-points into the discussion about urban Aboriginal governance. In taking the dialogue further - in completing the circle - we would encourage all parties and stakeholders to embrace certain fundamentals, and to begin the crucial task of engaging youth.

A. AGREEING ON FUNDAMENTALS

Each of the three major organizing principles for governance we have looked at have normative and practical relevance. Each also has weaknesses and draw-backs. The objective in completing the circle and achieving good governance should not be to seek perfection. What is important is to strive for dialogue and consensus, while adhering to certain common principles. We would suggest four:

1. Balance: The Aboriginal rights framework and the tradition of liberal democracy share a common concern to balance the two sides of justice: the treatment of like cases alike, and un-like cases differently.
2. Flexibility: As reflected in the demographics of urban Aboriginal Canada, considerable flexibility is warranted. However, flexibility in the application of governance approaches should not be seen as an excuse for haphazard or un-coordinated efforts.
3. Consent: Regardless of a particular approach, the principle of democratic inclusion must be advanced and achieved. While this may prove challenging given the current divisions within the Aboriginal community in and out of urban settings, the legitimacy of governance depends as much if not more on procedures that are fair, open and inclusive than on the particular ends being advanced.
4. Sharing: While urban settings are often seen as the most connected and up-to-date, Aboriginal people in urban areas are often more isolated than those in rural, remote or reserve settings. Whether due to the absence of existing governmental structures and communications systems within and between urban areas, or because of demographic mobility and dispersion, this challenge may be best met by sharing techniques, tools and talents across boundaries and between organizations. Métis, First Nation and Inuit structures based in non-urban areas have much to contribute, just as the talents of urban Aboriginal people can be a great resource for rural or remote communities. Similarly, urban Aboriginal communities should be able to rely upon municipal, regional and provincial, as well as federal structures and capacities to aid in achieving both the means and the ends of good governance.

We would also suggest a new focus on the notion of community in grappling with urban governance. This term is both more neutral and flexible, in avoiding some of the less helpful presumptions associated with terms like "Nation" and "community of interest". An Aboriginal community may well be based on nationality, but it may equally be rooted in place or in association with critical cultural and social functions, such as education. There would appear to be



little to gain by attempting to rank such associations in an overly rigid or coded hierarchy. Whether in urban, rural or remote settings, Aboriginal people are living communally. Whether as part of long-established or emerging social formations, these communities have their own norms, practices and traditions of decision-making. Respecting these differences, and these diversities, involves accommodating their autonomy and self-governance.

It might also be helpful, in considering principles for dialogue and action, to return to the paradox of sovereignty referred to in Part II. As noted by Sir Karl Popper many years ago in his critique of Plato's approach to asking "who should rule?", the paradox lies in that this question actually solves no fundamental problem in philosophy or ethics. In its stead, Popper suggested that the problem of politics should be framed by a new question: "How can we so organize political institutions that bad or incompetent rulers can be prevented from doing too much damage?"⁶¹ Popper was in particular critical of those who insisted on the primacy of the older "who should rule" question, from Plato on, for making the tacit assumption that political power is, essentially, sovereign and unchecked, with the only question of importance being with whom to lodge such enormous authority.

B. ENGAGING YOUTH

As part of the wider examination of urban governance forms, our research project has attempted to highlight obstacles and opportunities for engaging youth more effectively in urban Aboriginal governance. This involved the documentation of indicators that make for success, as well as for failure, through survey instruments delivered to service agencies and through dialogue circles with urban youth and other participants in communities across Canada. While many youth have been heard, many more need to become involved, both in dialogue and in action.

Making progress for the achievement of urban governance is a project that can be readily polarized. It is our hope that in re-assessing often vigorously contested options and positions, shared values and commitments can be enlisted to overcome old lines of debate. However, principles and commitments require a tangible stake to become morally enforceable. In our view, it would seem that Aboriginal youth can and do trigger such a broadly shared interest.

Added to their demographic weight within the Aboriginal population, and their large relative size in contrast to non-Aboriginal youth, is the simple reality that today's youth are the main repository of hope for the renewal of Aboriginal societies and cultures, many of which are desperately fragmented. Yet Aboriginal youth in urban areas are facing poverty levels that are truly horrific. All the related issues of substance, sexual and physical abuse and family breakdown threatens yet further generations of parents and children with disability, disadvantage and destructive social conditions. In the absence of effective Aboriginal governance, youth turn to alternative structures and institutions to find relevance and meaning.



Focus and attention is often placed on the negative associations that result - such as youth gangs. We believe there is an obligation to learn from youth about why these choices are made, and how we can assist in making future choices more positive and meaningful. Governance, and youth engagement in governance, would seem crucial for this to be achieved.

Aboriginal youth are also demanding a reasoned and reasonable say in the determination of their own futures. This demand is an opportunity to consider new and possibly novel options for urban Aboriginal governance, particularly if governance is to hold relevance and legitimacy in the eyes of tomorrow's leadership. It is hoped that a new paradigm for reconciliation may emerge by focusing on how to engage Aboriginal youth in sustained, community-based structures that support their needs and represent their interests, both within the wider Aboriginal and non-Aboriginal communities in Canada's urban centres.



ENDNOTES

- ¹ Of particular relevance is Graham, K (ed.) Report of the Urban Governance Working Group, Royal Commission on Aboriginal Peoples, 1993 and Peters, E.J. (ed.) Aboriginal Self-Government in Urban Areas. Kingston. Institute of Intergovernmental Relations, Queen's University.
- ² See the Annotated Bibliography at Annex 1
- ³ Royal Commission on Aboriginal Peoples (1996) Final Report: V.2, Chapter 3.
- ⁴ Peters, Ibid, On the demographic analysis, see in the same volume: Peters, Evelyn (1995) "Demographics of Aboriginal People in Urban Areas", pp. 3-24. Clatworthy, S., J. Hull and N. Loughren (1995) "Urban Aboriginal Organizations: Edmonton, Toronto, and Winnipeg" in Peters, E. (1995), *Supra.*, pp. 25-82.
- ⁶ For example, the Doncaster reserve north of Montreal, as well as the River Desert reserve north of Hull, were initially established with the motive of removing Mohawk and other Indians at Kahnawake and Kanesatake respectively.
- ⁷ This statement of the goal of section 35 is set out most clearly by the Supreme Court in its judgement in *Van der Peet*.
- ⁸ At the same time, the Chiefs of some reserve-based communities, particularly those in the Prairies facing large potential increases in membership and resident populations in the wake of amendments to the Indian Act in 1985, have encouraged distinct recognition for non-reserve Indian communities - although without necessarily offering a sharing in governance over original treaty or title based lands and resources.
- ⁹ See, for example, Laforest, Guy and Douglas Brown (eds.) (1994) *Integration and Fragmentation*. Kingston: Queen's University, Institute of Intergovernmental Relations, Reflections Paper No. 12.
- ¹⁰ See the bibliographical references to this literature at Annex 1.
- ¹¹ See as an example of these origins Lewis Hanke's (1949) *The Spanish Struggle for Justice in the Conquest of America*. The American Historical Association and Little, Brown and Company (1965). Boston., pp. 109-146.
- ¹² As noted in Hanke, *ibid.* at pp. 42-45; the first Commission to investigate relations with the Indigenous peoples of the Americas was launched under Royal protection by Cardinal Jiménez de Cisneros, (who had been lobbied strenuously by Bartolomé de Las Casas, appointed in 1516 as "Protector of the Indians"), with instructions to free any Indians wrongly placed under the encomienda system of feudal serfdom. The Commission of three Jeronimite friars conducted their inquiry in 1517-1518 and reported that none of the colonists in Hispaniola (contemporary Cuba) saw the Indians as capable of freedom. They freed one Indian on the basis of his peacefulness and capabilities, and collected all others into villages under administrators and friars. Over the succeeding decade many of the Indians died, prompted in part by their concentration into the New World's first "reserves", and by the greater exposure to small-pox epidemics that ensued.
- ¹³ The *Charlottetown Accord* failed, of course, to find legislative enactment in the wake of the 1992 referendum.
- ¹⁴ *Charlottetown Accord*, Draft Legal Text, October 9, 1992.
- ¹⁵ The Supreme Court's decisions on different aspects of section 35(1) are, in sequence; *Guerin*, (1984), *Simon* (1985), *Sparrow* (1990); *Sioui* (1990), *Pamajewon* (1995), the "Van der Peet" trilogy (*Van der Peet*, *Gladstone* and *N.T.C. Smokehouse*; all in 1996); *Côté and Adams* (1996) and *Delgamuukw* (1997).
- ¹⁶ *Pamajewon*.
- ¹⁷ It is not without some irony that in *Delgamuukw*, the Court holds that it is only by virtue of section 88 of the Indian Act that any provincial legislature's laws can, subject to treaties, validly regulate the exercise of an Aboriginal right, whether of self-government or otherwise. According to federal legal positions on record, Section 88 only applies to "status" Indians, while of course section 35 rights apply to all three Aboriginal peoples, and without regard to status under the Indian Act.
- ¹⁸ The Court, in *Delgamuukw*, refers to "Indianness", because "Indians" is the term used in the 1867 *Constitution Act*. However, it is clear that the Court means this to apply to all three Aboriginal peoples.
- ¹⁹ Regarding the Crown's fiduciary obligations, see Rotman, Leonard I. (1996) *Parallel Paths: Fiduciary Doctrine and the Crown-Native Relationship in Canada*. Toronto. University of Toronto Press.
- ²¹ These principles are drawn from RCAP's Final Report, Volume 2, Chapter 3, *passim*.
- ²² There was no explicit policy for self-government for Inuit or Northern Aboriginal peoples, whom were expected to address this matter in land claims negotiations and through the adaptation of public governments in the North.

²³ In particular, see Groves (1991).

²⁴ This statement was made in 1995, and possibly was influenced by wider national anti-centrists. More to the point, and despite the careful use of wording in the policy based on ensuring ease of litigation, or rather revert to its pre-1995 position that no such right of self-government exists absent specific court direction or constitutional amendment.

²⁵ The Winnipeg "single window" is featured in the federal government's response to the Royal Commission in "Gathering Strength", and involves a range of federal and provincial departmental service outlets being located at the Aboriginal People's Centre in downtown Winnipeg. While the Winnipeg initiative is characterized in federal documentation as falling under the inherent right initiative, this is not regarded as addressing self-government by participants in the focus circle held in Winnipeg for our project.

²⁶ A total that does not, however, include self-government negotiations tied to comprehensive land claims in the North, B.C., Quebec or Labrador, a fact that reduces the actual commitment to the tripartite process to somewhat under 1% of the total Federal expenditure on self-government talks in relation to the inherent right.

²⁷ There are few supporters for the Federal government's jurisdictional argument, and the Supreme Court in Delgamuukw has defined "Indian" and "reserves" expansively to include all Aboriginal peoples such that Parliament has sole jurisdiction in relation to any matter within section 38, no matter which of the three peoples are involved. However, the federal position on primary provincial responsibility, even in the absence of jurisdiction, appears to remain in place, as affirmed at a May, 1998 Federal-Provincial-Territorial meeting of Ministers with national Aboriginal Leaders held to examine responses to the Royal Commission and strategies on social policy renewal.

²⁸ Supreme Court of Canada, (1996) *R. v. Van der Peet*.

²⁹ See for a recent exposition of democratic theories and issues in Canada, Russell, Peter H. (1997) *Constitutional Odyssey: Can Canadians become a Sovereign People?*, Toronto: University of Toronto Press.

³⁰ On the Crown and sovereignty, see Smith, David E. (1995) *The Invisible Crown: The First Principle of Canadian Government*, Toronto: University of Toronto Press. Of course, in law, Canada is a constitutional monarchy, with political sovereignty vested in the Queen on the basis of a theory of divine right.

³¹ Aristotle, Nichomachean Ethics, vol. V, Book 3, as referenced in Macklem, 1995, at note 112.

³² Hart, H.L.A. (1972) *The Concept of Law*, Oxford: Clarendon Press, p. 155. Emphases in the original.

³³ See Clay, Jason W. "Looking Back to Go Forward: Predicting and Preventing Human Rights Violations" (1993) in Miller, Marc (ed.) *State of the Peoples: A Global Human Rights Report on Societies in Danger*, Boston: Cultural Survival, p. 64-69.

³⁴ On the relationship of property to liberal-democratic theories, see MacPherson, C.B. (1978), "Liberal-Democracy and Property", in C.B. MacPherson (ed.) *Property, Possession and Control*, Toronto: University of Toronto Press.

³⁵ For example, several Canadian provinces have passed laws restricting the acquisition of property by non-residents, whether Canadian or not. Another case is the restrictions imposed on property ownership on Chinese, Japanese and Indian immigrants early in this century, particularly in British Columbia.

³⁶ On "deep diversities", which in Canada includes the French/English diversity and the Aboriginal non-Aboriginal one, see Taylor, Charles (1991) "Shared and Divergent Values" in R.L. Watts and D.M.Brown (eds.) *Options for a New Canada* (Toronto: University of Toronto Press).

³⁷ Cf. Woodcock, George (1962) *Anarchism: A History of Libertarian Ideas and Movements*, Harmondsworth, England: Penguin.

³⁸ See the bibliographical references under Democratic Liberalism at Annex 1.

³⁹ A conventional reference point for the early literature is Mackinnon, Peter J. (1968) *Canadian Federalism: Myth or Reality*, Toronto: Methuen Publications. A more contemporary overview, particularly in relation to linguistic dualism, Aboriginal rights and multiculturalism, is McRoberts, Kenneth (1997) *Misconceiving Canada: The Struggle for Survival, 1945-1990*, Oxford: Oxford University Press. See as well Kymlicka, Will (1995) *Liberalism and Cultural Theory of Minority Rights*, Oxford: Clarendon Press.

⁴⁰ For a discussion of the displacement of social definitions of place by economic and political mastery over space in the Americas, see Sack, Robert (1986) *Human Territoriality: Its Concepts, Processes, and History*, Cambridge University Press.

⁴¹ The Royal Commission on Aboriginal Peoples has made specific recommendations in 1996, varying considerably the earlier recommendations of the Royal Commission on Electoral Reform and Party Financing, and the latter's Committee for Aboriginal Electoral Reform.

- ⁴² The Sechelt Indian First Nation was the first, in 1988, to blend public and Indian-specific governance on a reserve so as to permit non-Indians to participate in governance. In all other cases, the franchise is restricted, with one exception, to band members. The restriction is the position of Chief of a band Council, which is nominally open to any person, regardless of membership or residence. More generally, the application of the personality principle to Indian reserves has not generally resulted in the extension of the franchise to non-resident band members. The Indian Act's restrictions on the franchise are the subject of a pending Supreme Court decision in *Corbière et. al. v. The Queen*.
- ⁴³ The federal government established a Métis religious mission colony with its own land base at St. Paul des Métisses prior to Alberta achieving province-hood, but it was dismantled in 1905. Both the federal and Newfoundland governments devised the "designated communities" program that has extended to as many as ten majority Aboriginal communities in the province, nine of them in Labrador. However, none of these examples, unlike the case with Indian reserves, have involved any formal system of local self-government. Rather, they have permitted the application of unique social programs and services designed with the Aboriginal majority in mind to be delivered to all residents, thus preserving nominal uniformity in the treatment of citizens and avoiding corporate recognition of the Aboriginal community involved.
- ⁴⁴ For example, the reserve at Maliutenam near Sept Îles, on which the Innu community originally from the Moise River headwaters were relocated in the 1950's, was initially set apart to accommodate both the Moise Innu and those living 20 km. away on a reserve in down-town Sept Îles. The latter refused to move, however, and now the two reserves and communities are governed as one, which has created its own problems given the numerical predominance of the Sept Îles community and the control this gives the latter over the treaty process now underway to settle the Aboriginal title claims of the community at Maliutenam to the Moise River headwaters.
- ⁴⁵ It is also worth noting that the involvement of urban band members in making decisions about the acquisition of or governance over urban reserves established by their own Bands has been severely constrained by the fact that the Indian Act uniformly restricts the franchise to reserve residents. This latter reality may in some cases have led to decisions not to permit residence on newly established urban reserves.
- ⁴⁶ Taking Ottawa as a case, the municipal corporation of Rockcliff provides an example of an economic or class enclave tailored to the needs of diplomatic, business and government elites, while the Sparks Street Authority, a unique condominium arrangement between the national Capital Commission and the City of Ottawa, affords special control by resident businesses over the main tourist thoroughfare adjacent to Parliament Hill.
- ⁴⁷ For example, the city of Vanier, a part of greater Ottawa, was adamant in opposing the expansion of urban Native housing projects in its boundaries once this exceeded what Vanier politicians regarded as the "average". As a national policy, the Canada Mortgage and Housing Commission discouraged the co-location of urban Native housing or multiple unit complexes over a certain density right up until the time, in the early 1990's, its funding of new units was terminated in federal budget cuts.
- ⁴⁸ While in the Senate this practice is merely conventional, upper chambers in many bi-cameral systems world-wide are much more specific about group representation, including that in Eire (Ireland) where specific provision is made for representation of the professions, the fine arts, etc..
- ⁴⁹ Formal representation of Aboriginal groups or Nations at the federal or provincial level, though absent in Canada, is a feature in New Zealand and in the non-voting delegate representation of the Penobscott and Passamaquoddy Tribes in the State of Maine legislature, a precedent now being actively examined by the New Brunswick Legislature in response to demands from both on and off-reserve Mi'kmaq and Maliseet groups.
- ⁵⁰ See Germain, Annick (1992) "Montreal and the Decline of Urban Culture", in Henri Lustiger-Thaler, *Political Arrangements: Power and the City*. Montreal. Black Rose Books.
- ⁵¹ *Tuplin v. The Registrar of Indian Affairs*, an unreported appeal case now before the Supreme Court of P.E.I., is attempting to assert that Aboriginal customary law has independent standing in Canada and as such provides a source of entitlement via the parent-child relationship to band membership, otherwise governed by federal statute law. The Crown asserts that customary law only has an impact on otherwise federally regulated descent issues such as band membership once statute law explicitly recognizes custom, as occurred in the Indian Act prior to 1878 and after 1985.
- ⁵² The Supreme Court's ruling in *Delgamuukw* leans clearly towards adjustment of state and common law to Aboriginal law by the reception of the latter by the former. Earlier rulings since 1982 tended to enforce Aboriginal law only by exception, while prior to 1982 the most that was apparent was adjustment by adaptation. This suggests that the Supreme Court's view of law is rapidly evolving towards a more fundamental reconciliation.

- ⁵² The Royal Commission on Aboriginal Peoples made recommendations in this regard that highlight the dissonance between the traditions. The Commission recommended a "Third House" to insure representation in Parliament for 60 or more Aboriginal Nations, as opposed to the assumption of many - including most First Ministers during the Canada Round talks - that Aboriginal governments and peoples could be represented through the Senate by the addition of just 4 seats, one for each of the main "peoples", adjusted upwards from the three "listed" peoples in section 35 to take account of status and residence divisions within the Indian population, and disputes over the identity of "Métis" separate from the western or "Red River" Métis Nation.
- ⁵³ See Aboriginal Urban Governance at Annex 1 for a listing of relevant articles and papers.
- ⁵⁴ Annex 3 reports on the results of the focus circles in greater detail, from which our summary in this Part is drawn.
- ⁵⁵ The degree to which historic treaties established or preserved common "treaty Nation" boundaries of relevance to governance is not uncontroversial. Of particular concern in this regard is that many treaties were signed with broad tribal groups, only to be implemented through the displacement of these political formations by the establishment of various reserves within the treaty boundary which subsequently become organized under the Indian Act approach of municipal government. Thus there is friction between occasional assertions of a right by a specific reserve based First Nation government to govern on the basis of a treaty right, as opposed to the demand of others for common governance amongst all treaty descendants notwithstanding reserve boundaries. The impact of the status system on entitlements to treaty citizenship, a topic on which the Indian Act itself is silent, has greatly complicated this issue.
- ⁵⁶ No estimate exists to compare accurately the ranges involved, but a sense can be gleaned from the general estimate of over 50,000 plains Cree as compared to only a handful of members, status and non-status, remaining in several distinctive Nations, such as the Haisla in B.C., the Han in the N.W.T. and the Munsee in Ontario.
- ⁵⁷ The concept of host-Nation delegation or recognition of a local urban government would seem, however, to go well beyond the normative basis for a Nation-based right of self-government where Aboriginal national sovereignty becomes, in effect, "rentable".
- ⁵⁸ Added to this growing problem is the significant number of First Nation people, such as in Alberta, who have been entirely stripped of band membership, and have thus lost even a nominal accountability linkage to the federally recognized governments of their treaty-based kinship communities.
- ⁵⁹ Reserve communities such as Kamloops, Musqueam, Sechelt and Westbank, and fall into this category, and all four are attempting to deal with alternative representational means to afford non-member rate payers with voice, or vote, in the determination of how services are delivered. This issue also prompts the need for dialogue with adjacent municipalities, in which reserve residents generally have vote, but no tax liabilities.
- ⁶⁰ Karl Popper, "The Paradoxes of Sovereignty", in Miller, David (ed.) (1985) *Popper: Selections*, Princeton University Press, p. 320.



A Note on Sources

This Annotated bibliography is not meant to be exhaustive of the literature, but rather indicative of what our study has found to be of use in pondering normative assessments and approaches to Aboriginal governance in urban Canada, as well as in connection with Aboriginal youth. The bibliography is intended to provide interested partners and stakeholders with a synopsis of key findings and arguments made in a wide range of studies canvassed in the course of the LCC/NAFC research project. While the literature review conducted for our study included relevant publications dating back to the mid-1980s, we have restricted this annotated bibliography to those more recent studies and publications relating to the approaches of democratic liberalism and Aboriginal rights jurisprudence, as well as commentaries and position statements that have emerged during and since the efforts of the Royal Commission on Aboriginal Peoples.

A. Democratic Liberalism

Cotterrell, Roger

A Legal Concept of Community: (1997) Canadian Journal of Law and Society, Vol. 12.

The concept of community has a new importance for legal theory and legal sociology. Indeed, the whole concept of community allows an escape from traditional conceptions of the relationship between law, state and political society. The author develops the concept of community using Weber's four types of social actions: traditional community (shared environment), instrumental community (interests), community of beliefs and affective community. According to the author, law's contemporary task is to express and coordinate the regulatory needs surrounding structures of community within and beyond the Nation state.

The author states that in order for a community to attain stability, it is necessary that a sense of attachment, identity and of belonging be in the stages of development. Since State law dominates with its legal structure, legal consciousness and legal outlook, and that the Nation as a political society presupposes and depends on relationships of community between citizens, it is fundamental that State law expresses regulatory needs of the Nations. In order to do so, it should reflect the regulatory needs and forms of all fundamental types of collective involvement. The author believes that State law would gain its strongest relationship with community through its support of the various types of collective involvement or interaction as these are combined in actual contexts.

Duncanson, Ian

Cultural Studies Encounters Legal Pluralism: Certain Objects of Order, Law and Culture (1997) Canadian Journal of Law and Society, Vol. 12 No. 2.

This paper departs from an anthropological framework and substitutes cultural studies framework as a means of study. The author undertakes a historical examination of literature and argues that commentators of the cultural phenomena throughout the modern period (English culture) have inoculated the body politic against the “virus of difference”. Cultural studies is interdisciplinary, trans-disciplinary, and counter-disciplinary and the entire range of a society’s arts, beliefs, institutions and communicative practices are examined.

The author connects legal pluralism with colonialism suggesting a homeopathic tendency to deny the actuality of difference by pre-emptively recognizing it in a harmless form. The author provides the practice of native people as an example where the authenticity of Aboriginal law is taken to depend on its recognition by the state.

Franck, Thomas M.

The Emerging Right to Democratic Governance (1994) The American Journal of International Law, Vol. 86.

The paper examines the transformation of democratic entitlement from moral prescription to international legal order. The author demonstrates that ‘democracy’ is becoming a global entitlement, one that will be promoted and protected by collective international processes. The author argues that two notions have merged: 1) the notions that governments derive their just powers from the consent of the governed and 2) that Nations earn their separate and equal status in the community of states by demonstrating respect for the opinions of mankind (i.e., governments recognize that their legitimacy depends on meeting normative expectation of the community of states). Four indicators of legitimacy are analyzed: Pedigree (depth of the rule’s roots in a historical process); Determinacy (rules ability to communicate content); Coherence (rule’s internal consistency and lateral connectedness); Adherence (rule’s vertical connectedness to a normative hierarchy). In addition, the author assesses indicators in rule-making and implementation including: self-determination, freedom of expression, and the right to free and open elections

The author argues that the right to democracy in international law has gone through both a normative and customary evolution. According to the author, the evolution has occurred in three phases: 1) normative entitlement to self-determination, 2) normative entitlement to freedom of expression, 3) normative entitlement to a participatory electoral process.

Griffiths, John

What is Legal Pluralism? (1986) 24 Journal of Legal Pluralism and Unofficial Law 1



According to the author, legal centralism has been an obstacle to the development of descriptive theory of the law and has been a major hindrance to accurate observation. Legal centralists conceive the law as an exclusive, systematic and unified hierarchical ordering of normative propositions. The author submits that the modern legal world is not that tidy, consistent, organized ideal that can be captured in the common identification of 'law' and 'legal system'. The author argues that in reality, legal centralism is a myth and that legal pluralism is the fact.

Harrington, Christine B.

Popular Justice, Populist Politics: Law in Community Organizing (1992) Social & Legal Studies SAGE, London, Vol. 1, 177-198.

The author explores community organizations and their simultaneous struggle for autonomy from the state and dependence on it for both legitimacy and clients within the popular justice reform movements. According to the author, the identity of community organizations in law is neo-populist and that the culture of neo-populism distances forms of popular justice from the state while disempowering the community. The author argues that Community Boards use neo-populist empowerment ethos to organize identities about 'community' and the 'law' in the United States.

In conclusion, the author states that the relationship between 'law' and 'community' is conceptualized differently in four community organizing strategies: policing, governance, direct action, and conflict resolution. Law plays a minimal role in governance and direct action. Law is either a resource for getting community services (governance) or tactic for achieving a specific community goal (direct action). The policing and conflict resolution strategies for community organizing rely on law in their conception of the community to be protected and the community to be formed.

Kleinbans, Martha-Marie and Roderick A. Macdonald

What is a Critical Legal Pluralism? (1997) Canadian Journal of Law and Society, Vol. 12, No. 2.

This paper describes the theory of critical legal pluralism, an alternative image of law and a variant of legal pluralism as it is currently known, in an effort to redirect the socio-legal studies research agenda. Critical legal pluralism offers a view of legal pluralism in which the subject, both as a narrative construct and one who constructs law, is also considered. A critical legal pluralist starts from the premise that legal subjects are law-inventing and not merely law-abiding. Contemporary legal pluralism addresses which legal order has jurisdiction. According to the authors, this approach fails to consider the problem of the normative order(s) to which any legal subject belong and, furthermore, to recognize that legal subjects persist as heterogeneous, multiple creatures.



Kymlicka, Will

Liberalism and the Politicization of Ethnicity (1991) Canadian Journal of Law and Jurisprudence, Vol. IV, No.2.

Kymlicka examines contemporary liberal political philosophy and cultural pluralism. He focuses on cultural society distinctions attributed to a multinational and a polyethnic society. The author reviews the shift in political liberal philosophy by discussing three post war features: 1) the disillusionment with the minority rights scheme of the League of Nations; 2) the American racial desegregation movement, and 3) the 'ethnic revival' amongst immigrant groups in the United States.

According to the author, Canada is both multinational and polyethnic. The question that is put forward is: "how does the state recognize ethnicity?" (characterized as the "politicization of ethnicity"). The author concludes that contemporary liberal political philosophy ignores the politicization of ethnicity. According to contemporary liberals, culture is not the concern of the state and people should be free to pursue their culture in their private life. The author examines liberal orthodoxy and concludes that earlier liberal positions on minority rights did not endorse the current view that state should not be involved in cultural policies.

The change from orthodox to the contemporary liberal tradition, according to the author, is a result of the three features of the post war period: (1) disillusionment with the minority rights scheme of the League of Nations; (2) the American racial desegregation movement, and (3) the 'ethnic revival' amongst immigrant groups in the United States. Examination of the discussion of ethnic revival in works of Nathan Glazer and Michael Walzer, two contemporary liberal political theorists, is undertaken and rejected. The author argues that both Glazer and Walzer switch between emphasizing and ignoring the distinction between ethnic groups and national minorities, depending on whether the distinction helps or hinders their cause.

In addition, the author notes that both Glazer and Walzer make ad hoc appeals to a national consensus, which they equate with the aspirations of European and Asian immigrants. Further, the author notes that both assert the importance of liberalism to the separation of state and ethnicity and concludes that the rejection of national rights by Glazer and Walker have nothing to do with liberal principles and are in fact in conflict with them. Contemporary liberal philosophy would deny the Aboriginal community the use of national rights claims. Minority rights are perceived to be inherently unjust - a betrayal of liberal equality.

Macdonald, Roderick A.

Metaphors of Multiplicity: Civil Society, Regimes and Legal Pluralism (1988) Arizona Journal of International and Comparative Law, Vol. 15, No. 1.

The author challenges the traditional, authoritarian and hierarchical aspect of law by exploring the hypothesis of legal pluralism. The author examines the idea that explicitly announced legal rules fashioned by any type of political or social law-making institution in a given society, are not the only vehicles of normativity. He suggests that these legislative artifacts complement a variety of indigenous and customary rules, practices and purely implicit interactional expectancies. The author justifies his position through three concepts: legal subjectivity, legal normativity and the scope of official regimes of rules and formal dispute-resolution institutions.

Traditional legal analysis presumes that because the norms of the State law are not being infringed, the people are consciously acting so as to follow them. This assumption, says the author, is false and as an example he illustrates an interesting examination between religion (non state established rule) and law (state established rule) (Jehovah's witness and blood transfusion, Mormons and polygamy).

According to the author, a legal pluralistic approach takes in consideration aspects of social interactions that are integrated in the formal artifacts established by the State. A legal pluralist acknowledges and seeks out certain elements of internormative relationships that a traditional legal researcher would leave out and that consequently, in the author's view, would be very narrow and not a true reflection of interactions in society.

Mastura, Michael O.

Legal Pluralism in the Philippines (1994) Law and Society Review, Volume 28, Number 3

Drawing on the literature on legal pluralism, the author develops a framework for assessing how state legal systems accommodate minority (or customary law), ranging from reception, exception and adaptation. The study uses the example of the Philippines adoption in 1977 of the Code of Muslim Personal Laws, which now stands alongside the Philippines Family Code and Civil Code, as a basis for comparing these different approaches.

McDonald, Michael

A Review of Liberalism, Community and Culture (1992), 42 University of Toronto Law Journal

The author provides a critical review of Will Kymlicka's book *Liberalism, Community, and Culture*. He argues that there remains deep tension in liberalism and is not convinced by William Kymlicka's assertion that liberalism has the resources both to rebut communitarian criticisms and to be genuinely responsive to the legitimate aspirations of oppressed minorities.



The author outlines three reasons why defenders of minority rights would be reluctant to follow Kymlicka: First, more reflection is needed on the notion of group action for group ends to help explain how cultural membership creates a context of choice for individuals. Second, Kymlicka's arguments depend on an appeal to liberal intuitions about what is morally appropriate or inappropriate. Third, Kymlicka's dismissal of historical defences of Aboriginal title, according to the author, fails to take seriously the fact that there was historical wrong done to native peoples by non-native peoples.

The author also disputes Kymlicka's separation of culture as a context of individual choice from culture as having a particular content or character. According to the author, such a separation would lead to an argument for the hegemony of liberal culture as well as liberal political arrangements.

Merry, Sally Engle

Global Human Rights and Local Social Movements in a Legally Plural World (1997) Canadian Journal of Law and Society, Vol. 12 No. 2.

The author provides a case study of a program to control wife battering in a small town located in Hawaii. She examines the local manifestation of global human rights movements underlying cultural meanings of local phenomena. The case study considers how a rights based approach to gender violence channels, transforms and empowers the movement. The author identifies how the law produces significant cultural work in challenging men's sense of entitlement to hit their partners.

The author notes that international human rights language provides transnational discourse of justice and offers resources and political allies across national lines. However, according to the author, the use of rights frame channels directs efforts into institutional systems that focus on civil and political rights ignoring significant differences in resources and social connections. The rights based model is based on Western legal tradition in which the categories of personhood, responsibility, and subjectivity are incorporated. The law views the individual as an equal, autonomous, rational choice maker. Thus, the law demands conformity to its hegemonic categories.

The author concludes that the creation of an international language of human rights, particularly its recent application to the prevention of violence against women, is paradoxical. It provides a transnational discourse of justice in the authoritative voice of the law with claims to universal applicability; however, international human rights is embedded in Western legal tradition and it is unclear to what extent local communities in different political contexts are, in fact, remote from the cultural categories and systems of meaning embedded in Western law.

Metcalfe, Eric

Illiberal Citizenship? A Critique of Will Kymlicka's Liberal Theory of Minority Rights (1996) 22 Queen's Law Journal.

The author disputes William Kymlicka's theory that universal individual rights are not sufficient to protect individual freedom in a multicultural society and questions the necessity and legitimacy of minority rights. The author disagrees with Kymlicka's conclusions concerning the inadequacy of universal citizenship rights. He claims that, with the exception of language and education, Kymlicka fails to demonstrate how a government that observes the civil and political rights of each citizen may imperil the existence of minority cultures.

The author also questions Kymlicka's conception of minority rights. He asserts that Kymlicka's notions of descent and ethnicity are synonymous placing considerable emphasis upon a common language as a means of determining cultural membership. According to the author, the emphasis is misdirected, or at least based on illiberal premises, because a person can learn a language and this is why recourse is made to ethnicity to determine cultural membership.

The author attempts to demonstrate that Kymlicka's theory is based on a teleological argument and argues that meaningful differences that exist among individuals as members of various distinct cultures do not require any more protection than uniform individual civil and political rights. The author suggests that Kymlicka's theory of groups rights is anti-democratic. Under a liberal theory, one person, one vote validates democracy. The author maintains that the minority position is protected by the guaranteed protection of individual rights and not by group rights.

The author agrees with Kymlicka that demands for self-government weaken the larger political community. Kymlicka warns that if self-government demands are rejected, it may promote further alienation and secessionist movements.

Moore, Margaret

Political Liberalism and Cultural Diversity (1995) Canadian Journal of Law and Jurisprudence, Vol. VIII, No. 2.

The relationship between cultural diversity and the state is examined in this study. The author examines whether liberalism is justified as a mechanism for regulating cultural and philosophical diversity, as suggested by J. Rawls in *Political Liberalism*. She questions whether the liberal solution to the problem of diversity articulates the best conception of the relationship between the liberal democratic state and particularistic cultural communities. In the paper, she addresses three fundamental ideas central to Rawls's liberalism: the conception of society as closed; the conception of citizens as reasonable persons, and; citizens being motivated by a desire to be full citizens.



The paper concludes that Rawl's assumptions of society as being closed, citizens as reasonable persons and citizens motivated by a desire to be full citizens are overly abstracted from the intricate problems of diversity in contemporary society and thus raise the question of the relevance of Rawlsian theory in the circumstances of diversity. According to the author, any attempts to find principles to regulate culturally diverse states must recognize the importance of subjectively defined identity.

Nielson, Kai

How to Proceed in Social Philosophy: Contextualist Justice and Wide Reflective Equilibrium (1994) 20 Queen's Law Journal.

The paper argues that the concept of 'wide reflective equilibrium' is the method of generating principles of justice compatible with liberal tolerance and pluralistic societies. Wide reflective equilibrium appeals to general social theory, theory of moral development, theory of the role of morality in society, conceptions of human nature and a wide range of purely factual considerations. According to the author, wide reflexive equilibrium seeks to weigh and sift through principles of justice and attempt to achieve an overlapping consensus on these principles within the governance of plural societies.

Noel, S. J. R.

Canadian Responses to Ethnic Conflict (1993) in McGarry, John and Brendan O'Leary (eds.) The Politics of Ethnic Conflict Regulation New York. Routledge.

This paper, by one of Canada's pre-eminent authorities one compares the treatment accorded ethno-national divisions in Canada and suggests that the dominant response has been three-fold: consociationalism, federalism and control, with control being the response in relations between Aboriginal and non-Aboriginal peoples up to the 1970s. Noel contrasts the debates over the future of consociationalism (power sharing between distinct groups within a common jurisdiction) and federalism (division of jurisdictions under separate ethnic majority rule) - traditionally a field of French-English preoccupation - with the emergence in Canada of a more "polyethnic" identity drawing on immigrant acculturation, and related declines in the tolerance for both consociational and federalist accommodations. Noel finds that the challenge that Aboriginal people have brought to the equation since the collapse of the control approach, and particularly after 1982, along with Aboriginal familiarity with and acceptance of consociational models of power sharing and accommodation, offers a major opportunity to re-establish legitimacy for power-sharing or consociational responses to the traditional "French-English" debate, but only if Aboriginal peoples become fully a part of a new bargain and process of legitimization.

Réaume, Denise G.

Justice Between Cultures: Autonomy and the Protection of Cultural Affiliation (1995) *University of British Columbia Law Review* Vol. 29.

The author discusses cultural heterogeneity, the problems of inter-group relations and the value of autonomy. The author argues that there must be some scope of autonomy of cultural groups as a result of a normative account of what is natural. Furthermore, he contends that concern for personal autonomy prescribes that greater attention should be paid to the role of cultural forms in people's lives. The presence of value indeterminacy, according to the author, helps account within which a degree of cultural autonomy accorded to groups makes sense. Two principles limit positive state action in support of a minority's maintenance of its practices: Harm principle, that is coercion can not be used against individuals except to prevent harm; and Autonomy, that is infringement to deny somebody a life option.

Taylor, Charles

Shared and Divergent Values (1991) in R.L. Watts and D.M. Brown (eds.) *Options for a New Canada* Toronto: University of Toronto Press.

Taylor, one of Canada's most respected political philosophers, provides an important perspective on democratic liberalism in Canada that situates the dialogue on ethno-national pluralism in the context of "deep diversities", or fundamental divergence around which a range of social, economic and political grievances or issues can readily coalesce to generate crisis-like political conflict. Taylor sees only two such deep diversities in Canada: the English-French diversity, and the Aboriginal-non-Aboriginal diversity. Taylor's bench-mark analysis has formed the basis of a new assessment of liberalism in the context of Aboriginal issues by mainstream theorists of democratic liberalism in the 1990s.

B. Aboriginal Rights Policy and Jurisprudence

Barsh, Russel L. And James Youngblood-Henderson

The Supreme Court's Van der Peet Trilogy: Naive Imperialism and Ropes of Sand (1997) 42 *McGill Law Journal*.

This paper examines the recent Aboriginal rights test enunciated by the Supreme Court of Canada. The previous test, outlined in *R. v. Sparrow*, [1990] 1 S.C.R. 1075, stated that the applicant should show that the activity was practiced Aboriginally and was never properly extinguished. In *R. v. Van der Peet*, [1996] 2 S.C.R. the Supreme Court of Canada applied the *Sparrow* decision and stated that the applicant must also establish the centrality of the activity to the precolonial Aboriginal culture and that it must also be compatible with Anglo-Canadian law as a whole. According to the authors, this test leads to absurd results. The judiciary should have considered the reasoning in the Australian case, *Mabo v. Queensland*, [No.2], (1992) 175



C.L.R. 1, [1992] 5 C.N.L.R. 1 and rule that Aboriginal legal systems were imported intact into the common law.

Borrows, John

With or Without You: First Nations Law in Canada (1996) 41 McGill Law Journal.

The author discusses the racial and cultural bias that continues to suppress the legitimacy and the acceptance of First Nations law. He also identifies the existence of mechanisms currently in place that would allow for the communication, proof, interpretation, reception and application of First Nations law.

Carens, J.H.

Citizenship and Aboriginal Self-Government (1994) A paper prepared for the Royal Commission on Aboriginal Peoples, in (1997) For Seven Generations. Ottawa. Libraxus.

The author discusses self-government mainly with respect to Aboriginal peoples living on Aboriginal land as assigned by the Federal government and from the perspective of a non-Aboriginal person. He argues for differentiated citizenship rather than for unitary citizenship which might not contribute to Aboriginal and non-Aboriginal peoples working together in a spirit of trust and mutual co-operation (civic integration). The author outlines different ways of belonging to a political community by distinguishing three dimensions of membership: legal, psychological, and participatory / representational. In addition, he discuss three conventional unitary models of citizenship, particularly the Nation-State model. Lastly, the paper examines existing institutions and practices that embody elements of differentiated citizenship.

Chartier, Clement

Governance Study : Métis Self-Governance in Saskatchewan (1995) A Research Paper prepared for the Royal Commission on Aboriginal Peoples, in (1997) For Seven Generations. Ottawa. Libraxus.

The author describes the foundation or infrastructure for self-government on a non-constitutional basis. In the paper, he covers the democratic exercise of elections, establishment of a legislative assembly and the creation of affiliated institutions which deliver programs and services. Furthermore, he describes current Métis Self-government structures. The goal, according to the author, is to rebuild self-government institutions and enhance Metis political systems and access land and resources so that the people can move towards an eventual implementation of Métis self-government. From his research, the author identifies and describes four distinct perspectives on governance including those of non-status Indians, Métis, off-reserve and urban peoples.

Elkins, David J.

Aboriginal Citizenship and Federalism: Exploring Non-Territorial Models. (1994) A Research Paper prepared for the Royal Commission on Aboriginal Peoples, in (1997) For Seven Generations. Ottawa. Libraxus.

The author argues that federalism provides a more useful framework for the creation of an Aboriginal province than consociationalism or corporatism. The non-territoriality concept would allow for greater scope for traditional Aboriginal concepts of land use, governance and culture. According to the author, a third order of government, federal or confederal in nature, and modeled in part on provincial status (or several provinces confederated as a third order) affords the most practical, defensible, and attainable alternatives.

Groves, Robert

Territoriality and Aboriginal Self-Determination: Options for Legal Pluralism in Canada. (1991) Commission on Folk Law and Legal Pluralism. Proceedings of the V International Symposium

This paper reviews alternatives to the territoriality presumption common to contemporary approaches to self-government in Canada. The study reviews a range of examples of how the territoriality bias has led to absurd results, and addresses options to implement governance amongst "landless" Aboriginal peoples, including those in urban areas. The study utilizes a conceptual framework developed by Robert Sack to indicate how territoriality is only one of a range of approaches to organizing human affairs, and can bring both un-intended and un-wanted consequences when mis-applied.

Hall, Geoff R.

The Quest for Native Self-Government: The Challenge of Territorial Sovereignty (1992) 50 University of Toronto Faculty of Law Review.

The author discusses the numerous fields of law which employ concepts of sovereignty other than territoriality within the existing legal system. According to the author, extraterritorial application of criminal law, income taxation on the basis of citizenship, diplomatic immunity, sovereign immunity, admiralty law and military law demonstrate the enormous flexibility of the legal system. These examples show that the concept of territorial sovereignty is not an absolute concept. Rather, it presents possible models for Native governments to adopt, freeing them to design self-government in creative and innovative ways. It is recognized that any regime of self-government will likely borrow numerous ideas and generate new ones; it will not necessarily adopt one model presented in the existing law. The actual legal system may serve as a positive force to the recognition of native self-government.

Macklem, Patrick

Aboriginal Rights and State Obligations (1997) Alberta Law Review 36 (1).

The main focus of this paper is the right to economic and social benefits to Aboriginal peoples including health, education, culture, housing, social assistance, and nutrition. In shedding light on some problems relating to the definition and scope of Aboriginal rights recognized by s.35 (1) of the Constitution Act, 1982, the author argues that the Constitution recognizes more than what are often referred to as negative rights (various duties of non-interference). It recognizes that Aboriginal rights possess positive dimensions: governmental duties to provide certain social and economic benefits as determined by Aboriginal identity, territory and sovereignty.

Macklem, Patrick

Normative Dimensions of an Aboriginal Rights to Self-Government (1995) Queen's Law Journal 21

According to the author, the right to self-government is best defended by a combination of arguments which would blunt critiques based on contingency of normative thought. Reliance on one perspective to the exclusion of others does not provide a full picture of the normative significance of an Aboriginal right to self-government. It is best understood when housed in principles of equality.

Manitoba Métis Federation

A Report of Métis Self-Government in Urban Manitoba (1994) A Paper prepared for the Royal Commission on Aboriginal Peoples, in (1997) For Seven Generations. Ottawa. Libraxus.

This Report describes the situation of Metis people in urban Manitoba and the over-representation of that population in child welfare, criminal justice system. As the Inquiry stated: social problems will be resolved when Aboriginals exercise greater control over their own lives. The Report provides examples of models already existing in Manitoba with respect to education and economic development.

Olynky, John M.

Approaches to Sorting Out Jurisdiction in a Self-Government Context (1995) 53 University of Toronto Faculty of Law Review.

The author examines how First nations' legislative powers will be made to fit into the existing framework of federal and provincial legislative jurisdiction. To illustrate how self-government powers may be defined and how these agreements deal with relationship between First nations' law-making powers and those of Parliament and provincial legislatures, he examines two models of self-government: (1) the Champagne-Aishihik First Nations and (2) the Sechelt Self-Government Agreement. Special attention is given to concerns arising from the possibility of dual eligibility to services. This problem was



identified in the course of negotiation of self-government in Yukon. It uses the occupied field test rather than the inconsistency test to solve legislative overlaps, as well as consultation between governments and a provision for Yukon government to decide that its laws will cease to apply to members of the Champagne-Aishihik First Nations.

Reeves, William J

Native Societies: The Professions as a Model of Self-Determination for Urban Natives (1986) in Ponting, J. Rick (ed.) Arduous Journey: Canadian Indians and Decolonization. Toronto, McClelland and Stewart.

This essay reflects a relatively early effort to grapple with self-determination in the absence of a land based form of self government, restricting itself to viewing solutions in the vein of provincial non-profit organizational forms or delegated legislation modelled on the professions of law and medicine. The paper adds to the orthodox model of delegated legislation the prospect of grounding this approach in a constitutional right, and briefly explores the consequent need for Federal legislative frameworks to displace the limits of existing provincial legislation.

Peters, E.J.

The Geographies of Aboriginal Self-Government (1994) in John Haylton (ed.) Aboriginal Self-Government in Canada. Saskatoon, Purich Publishing, pp. 163-179.

This paper addresses the spatial or geographic context of self-government analysis that is largely overlooked in policy, academic and legal assessments of Aboriginal governance. Peters employs concepts of space, place and territory to conduct a preliminary assessment of implications for the representation, preservation and construction of Aboriginal cultures. Consequences for efficiency, for fairness and for social and political balance, are explored with the aid of a number of concrete examples. Peters brings to the discourse on territoriality and its influence on potential models of self-government in urban areas an important degree of rigour, drawing upon the discipline of political geography.

C. Urban Aboriginal Governance

Brown, Douglas M. and Jill Wherrett

Models for Aboriginal Self-Government in Urban Areas (1992) Institute of Intergovernmental Relations, 1992. A study prepared for the Native Council of Canada.

The authors discusses differences between communities in terms of political traditions and economic development. According to the author, there is a need to develop resources, skills, and coherence of urban Aboriginal communities before self-government is successful. However, one must remember that self-governing is an on-going process which take into consideration various elements of governing (membership,



jurisdiction and powers of Aboriginal governments, urban governing structures, access to lands and resources for urban populations, the financing of urban Aboriginal governments, and the relationships of urban governments to other Aboriginal and non-Aboriginal governments).

Bryant, Michael J.

Aboriginal Self-Determination: The Status of Canadian Aboriginal Peoples at International Law

(1992) 56 Saskatchewan Law Review 267

The purpose of the paper is to clarify and distinguish between the type of self-determination sought by Aboriginal groups, and the type commonly associated with decolonization. The author argues for international legal recognition (more so than the political one) of Canadian Aboriginal groups as self-determination units and offers suggestions with regards to appropriate Canadian action in light of the legal findings. An Aboriginal self-determination right must be in accordance both with customary international law and with the purpose of self-determination. Canadian Aboriginal peoples qualify as self-determination units and should have the powers associated to governance (subject to limitation such as serious crimes, and applicability only on a defined territory)

Clatworthy, Stewart, Jeremy Hull and Neil Loughren

Urban Aboriginal Organizations: Edmonton, Toronto And Winnipeg (1995) Aboriginal Self-Government in Urban Areas. Kingston. Institute of Intergovernmental Relations, Queen's University.

One of the goals of self-government for urban Aboriginal people is to have Aboriginal organizations assume a much greater role in the development and provision of programs and services to the Aboriginal population. This study undertakes to provide some basic descriptive data concerning the structure and characteristics of Aboriginal organizations that are dedicated primarily to serving the interests and needs of urban Aboriginal residents. Aboriginal organizations in cities of Edmonton, Toronto and Winnipeg were examined. The study is not advocating for urban self-government to be developed around the existing set of organizations operating in urban areas. Rather the primary goal was to identify what currently exists by way of urban Aboriginal organizations such that this information may form part of the broader discussion concerning self-government alternatives in urban areas.

Centre for Policy and Program Assessment, Carleton University

The Discourse on Governance (1994) Royal Commission on Aboriginal Peoples. Public Policy and Aboriginal Peoples, 1965-1992, volume 1, chapter 5

This publication presents a brief analysis of all important documents related to governance models and published by Aboriginal peoples and governments up to 1992. The paper refers to the lack of documentation on the issue of urban Natives and the

historical perspective provides an excellent background to the issues.



Dorion, John

Self-Government and Métis People in Urban Areas (1995) Aboriginal Self-Government in Urban Areas. Kingston. Institute of Intergovernmental Relations, Queen's University.

The author envisions self-government succeeding for the Métis people by going back and rebuilding the Nations. He argues that the Métis people are recognized in the Constitution as Aboriginal people and therefore they have an inherent right to self-government and self-determination. The author points to the fact that racism is a major problem in urban centres and it is very difficult for the young Métis people moving into the cities. He believes that Métis people have to start exercising their political power and get more Métis into positions on Commissions and Boards.

Dust, Theresa

Implementing Self-Government in Cities, in (1995) Aboriginal Self-Government in Urban Areas. Kingston. Institute of Intergovernmental Relations, Queen's University.

This paper reviews the experience of the city of Saskatoon with the establishment of an urban reserve by the Muskeg Lake Cree Nation for economic development, created under the Department of Indian Affairs' Additions to Reserve Policy. The paper explores from the municipal government's vantage the main issues and needs facing municipalities in connection with urban reserve establishment, including: a strong Aboriginal government or institution with which to deal and a framework within which municipalities and the Aboriginal community can negotiate. From the urban municipality's side, the key is the recognition of and respect for the fact of Aboriginal jurisdiction and an acceptance of a loss of control. At some point in the negotiations, the urban municipality comes to terms with the fact that the Aboriginal community does not have to do what municipalities want. The way that this will play itself out will be in terms of the question of who has the jurisdiction to pass bylaws, who is the taxing authority, etc. From the First Nation's side, the key is the recognition of and respect for local governments as the legitimate elected leadership of the non-Aboriginal community and the acceptance by the First Nations that they cannot exist and operate in isolation from this local community. This will play itself out usually in terms of tax loss compensation, sale of services, or other payment of money.



Federation of Canadian Municipalities

Municipalities and Aboriginal Peoples in Canada (1993) A submission to the Royal Commission on Aboriginal Peoples, in (1997) For Seven Generations. Ottawa. Libraxus

The FCM sees the most useful form of Aboriginal self-government as resembling municipal government, seeks mechanisms to ensure that the implications of any agreements on local responsibilities, industries, economic development, jurisdictions, etc. be addressed, and calls for municipalities to be party to the negotiation of land claims and Aboriginal self-government. Other recommendations include:

- ◆ Municipal leaders should offer their expertise to the evolution of Aboriginal self-government;
- ◆ Urban areas should establish a central location for services - a one-stop approach in urban areas with a significant Aboriginal population;
- ◆ Regular communication through meetings as well as Aboriginal participation on local government boards, agencies and committees.
- ◆ Improved political participation and managerial representation by Aboriginal people at the municipal level;
- ◆ Aboriginal people must develop a sense of ownership through full and equal participation in all local affairs beginning with appropriate representation on all relevant municipal boards, agencies and committees and municipalities must support this process.
- ◆ A comprehensive consultation process involving all governments must be established with respect to the potential of urban reserves. Research into developing Aboriginal urban self-government through separate service delivery agencies must be given a high priority;
- ◆ Federal government must not make a distinction between Aboriginal people on-reserve and those in urban areas. Urban Aboriginal people do not have adequate services available to them. The federal government in maintaining its fiduciary role must cooperate with municipalities and Aboriginal communities in development strategies, financial and otherwise to remedy this situation.

Gerecke, Kent And Barton Reid

The Failure Of Urban Government: The Case Of Winnipeg (1992) Political Arrangements: Power And The City, By Henri Lustiger-Thaler, Black Rose Books Ltd, p. 123-142.

The authors conclude that Winnipeg is not efficient in governance. The author proposes to support community initiatives because they are more efficient in meeting the needs of the peoples and has the potential of attracting tourists. Very briefly, the author provides examples of Aboriginal peoples' initiatives in Winnipeg and portrays urban self-government as being very positive for the city.

Graham, Katherine et. al.

Report of the Urban Governance Working Group. (1994) A research report prepared for the Royal Commission on Aboriginal Peoples, in (1997) For Seven Generations. Ottawa. Libraxus.

This paper reports on a range of broad considerations considered by the Royal Commission's internal research team focussing on Urban governance issues. It's use is primarily as a touchpoint for policy considerations not otherwise picked up in the Royal Commission's Final Report.

Graham, Katherine

Implementing Aboriginal Self-Government: A Personal Perspective (1995) Aboriginal Self Government in Urban Areas Kingston Institute of Intergovernmental Relations, Queen's University.

This short perspective paper pointedly questions the wisdom of implementing self-government in rural, reserve and remote settings, while questioning or delaying its implementation in cities. Graham notes that developments occurring outside urban centres may greatly pre-determine or distort opportunities and choices for people in cities. Healing, governance and economic self-sufficiency and capacity may be things that have to move parallel to one another if better conditions for urban Aboriginal people are to be realized. Graham asserts that the best strategy is for self-governing Aboriginal institutions in urban centres to speak to the needs of the full spectrum of the urban population, rather than respond in a partitioned or partial fashion to externally based initiatives that only speak to a portion of the populations concerned.

Graham, Katherine

Urban Aboriginal Governance in Canada: Paradigms and Prospects (1997) A paper presented to The Conference: Urban Life/Urban Culture – Aboriginal/Indigenous Perspectives, University of Western Sydney, Australia (November 27-29, 1997).

This paper examines urban Aboriginal governance defined broadly to include service institutions, advocacy organizations and public governments' accommodation of Aboriginal needs through representative or advisory relationships. The paper notes a number of initiatives now underway offer hope for positive change, but adds a major caution regarding the absence of a clear framework for financial and legal-political acceptance and support for urban institutions. Graham cautions in particular against a "business as usual" approach or failure to respond to the Royal Commission's Report, noting in particular the federal government's role in signaling a new paradigm and accepting the need to establish a new national framework within which the diversity of Aboriginal peoples, including those in urban settings, can operate.



Helgason, Wayne

Urban Aboriginal Issues, Models and Stakeholders Relative to the Transition to Self-Government, (1995) Urban Areas - Proceedings of a Workshop May, 1994. Kingston: Institute of Intergovernmental Relations, Queen's University.

This paper reviews issues, potential models and the stakeholders, relative to the transition to self-government, and the implications for the urban Aboriginal community, the larger society and social policy advocates. It discusses primary approaches to urban Aboriginal self-government: A Non-Territorial model contemplates the development of self-government within the urban areas based upon jurisdiction over citizens rather than a public form of government. Two possible variants under this model would be Institutional Autonomy and Political Autonomy. An Extraterritorial Approach offers the establishments of governance structures that vest governing authority within reserve-based First Nations governments. This approach is based on jurisdiction over First Nations citizens, regardless of where they may live, rather than jurisdiction over any territory outside of the reserve land base. The Territorial/Urban Lands Model considers the development of urban self-government on a land base. There are three possible variants, two of which are exclusive (status driven) and one inclusive (status blind): the urban reserve option, a Metis homeland option and a neighbourhood based option.

The paper notes that urban Aboriginal organizations have identified a need for a transition process that includes the commitment of all stakeholders to the development of self-government that: 1) is inclusive of all Aboriginal people; 2) empowers all constituent groups through their participation in design and implementation; 3) provides mechanisms and resource allocations for the design and delivery of a holistic and comprehensive strategy intended to eliminate the poverty and political marginalization that is characteristic of the majority of Aboriginal people; and 4) is accountable to the people. Helgason calls for a review of the underlying principles, guiding philosophies and financial resources of all existing programs, services, governing structures and decision-making modes, as well as a review of all existing financial arrangements relative to all levels of Canadian governments (federal, provincial, and municipal) to meet the needs of Aboriginal groups.

Hughes, Marja

Literature and Effective Practices Review of Municipal-Aboriginal Relations. (1997) Ottawa: Centre for Municipal-Aboriginal Relations

This report synthesizes the literature primarily dealing with First Nation-Municipal relations, though it also canvasses some of the literature and case studies available on urban Aboriginal initiatives.

La Prairie, Carol

Seen But Not Heard: Native People in the Inner City (1995) Ottawa
Minister of Justice and Attorney General of Canada.

This volume reports on an extensive research effort into inner city youth and encounters with policing and the justice system, in four major metropolitan areas (Montreal, Toronto, Regina and Edmonton). Based on data generated through 621 interviews with inner city youth, the report concludes with a wide range of program specific recommendations of value to researchers and program designers in the criminal justice and family victimization and violence fields. Of particular relevance are the conclusions regarding diversion projects and alternative justice. Inner city youth, according to the report, often share more with other very low income and street people than with other Aboriginal populations, including other urban groups outside inner cities. This has implications for intervention strategies. In relation to the high levels of violence within inner city Aboriginal (and non-Aboriginal) settings, the report calls for two major approaches requiring long-term intervention: changing the childhood and community conditions, and reducing social and economic marginality. Alternatives to incarceration in particular is seen as a critical goal.

Les, John

Approaches to Aboriginal Self-Government in Urban Areas: What Could Self-Government Look Like? (1995) Aboriginal Self-Government in Urban Areas. Kingston. Institute of Intergovernmental Relations, Queen's University.

This discussion paper explores the potential of various models of self government, including the need to avoid compromising the federal fiduciary responsibility for Indians and sovereignty and the inherent right of self-government. While Les notes that sovereignty is relatively easy to conceptualize on a land base, it is considerably more difficult in a city where the community lacks a specific geographical territory, despite most, if not all, Canadian urban areas having being or still occupying Aboriginal lands. Characteristics of a group needed for the inherent right of self-government are stated to include: adequate numbers, some sense of social cohesiveness and a desire to preserve and promote a cultural identity. Possession of a land base is not seen as a necessary characteristic. Les also agrees that a large scale program of public education will have to be undertaken to prevent any backlash on the part of municipalities or the general public once self-government is instituted.

Maracle, Sylvia

Urban Self Government: Setting the Context (1995) Aboriginal Self-Government in Urban Areas Kingston. Institute of Intergovernmental Relations, Queen's University.

This paper expresses the view of a long-time urban Aboriginal activist within the Friendship Centre movement, and stresses the need to embrace and respond to the great variety amongst

Aboriginal peoples in urban settings. Access to traditional resources (elders and traditional teachers) is reported to be a particular concern, as is the need to avoid forcing urban Aboriginal governance into a “settler government” mold of assimilating diverse origins into a “common melting pot” of racial uniformity. The need for directly accountable institutions in the urban area is seen as one of the surest paths to avoiding this potential consequence.

National Association of Friendship Centres

Final Report to the Royal Commission on Aboriginal Peoples (1993)

A submission to the Royal Commission on Aboriginal Peoples. Unpublished.

This submission deals extensively with Aboriginal urban self-government. It describes what the role of Friendship Centres has been to date, assesses a range of financial, jurisdictional and citizenship options to self-government. Based in part on a legal assessment prepared for the submission by Prof. Morse of the University of Ottawa, the NAFC Submission asserts section 35 of the Constitution Act, 1982 as the source of an inherent right to self-government in urban areas, no less than in remote or rural “land-based” contexts. Friendship Centres view themselves as complementing Aboriginal political organizations, in that they have years of experience in service delivery, while Aboriginal political organizations have years of experience in lobbying the government and dealing with political issues, and little or no capacity for service delivery. NAFC calls upon all Aboriginal organizations and governments to recognize and respect the legitimacy and autonomy of existing community structures, including Friendship Centres, and recommends that political organizations at the regional and national level enter into protocols or agreements with the NAFC to advance urban Aboriginal needs. Federal, provincial, territorial and municipal governments are asked to recognize the NAFC as the prime server of the needs of urban Aboriginal people.

Native Council of Canada

The First Peoples Urban Circle: Choices for Self-Determination

(1993) A submission to the Royal Commission on Aboriginal Peoples. Ottawa: Native Council of Canada.

The Native Council of Canada (now the Congress of Aboriginal Peoples) submission to the Royal Commission focussed exclusively on urban Aboriginal government. The submission’s ten volumes incorporate the findings of a national survey of some 1,200 urban Aboriginal peoples in six centres (Vancouver, Saskatoon, Winnipeg, Thunder Bay, Montreal and Halifax), as well as reporting on legal, financial and policy analysis of issues respecting governance implementation. A summary of findings and recommendations is provided in Book I: The National Perspective.

Opekokew, Delia

Treaty First Nations Perspective on Self-Government for Aboriginal Peoples in Urban Areas in (1995) Aboriginal Self-Government in Urban Areas. Kingston. Institute of Intergovernmental Relations, Queen's University.

This discussion paper asserts that Treaty First Nations retain jurisdiction over their citizens residing on or off a reserve by virtue of the treaty arrangements with Canada. Only such First Nations can form their own governments and neither the provinces nor Canada have the power to create new "Aboriginal" governments or new "nations". First Nations governments need to consult with their citizens living on and off reserves to determine how they wish to govern themselves. If the desire is for urban self-government then the appropriate mechanisms for the delegation of its establishment must come from the First Nations and not the provincial or federal governments. The paper also asserts the need for the federal government to pass legislation to recognize and affirm the self-governing status of First Nations governments on and off reserves. The governments, however, must be structured to serve the off-reserve citizens and be must be accountable and responsible to their citizens wherever they reside.

Peters, Evelyn

Demographics of Aboriginal People in Urban Areas (1995) in Aboriginal Self-Government in Urban Areas Kingston. Institute of Intergovernmental Relations, Queen's University.

The paper provides an analysis of published statistics on Aboriginal people in urban areas. The most striking aspect of the analysis is the tremendous variation in the characteristics of Aboriginal populations in different metropolitan areas. These differences are significant because they identify populations that may have differential access to and aspirations concerning self-government. Approaches to self-government and strategies for implementation must accommodate this variability.

The 1986 and 1991 Census data analyzed illustrate poverty, high dependency ratios, and disadvantaged labour market position. These conditions demand a policy response. However, the rate of population change and the nature of socio-economic characteristics vary widely among metropolitan areas. As a result, Aboriginal populations will have differing priorities and differing capacities to consider and implement self-government. These two issues - the need for steps to improve life for Aboriginal people in urban areas and the differing capacities of local Aboriginal populations - suggest that a variety of initiatives concerning Aboriginal people in cities is needed. Some of these initiatives could focus on providing immediate relief. Others could require much more long-term planning and implementation. The varying capacities of urban Aboriginal populations also suggest that it could be extremely useful if they could share information, strategies, and experiences concerning governance for Aboriginal people so



that every community does not have to bear the entire burden of developing its own approach to self-government.

Royal Commission on Aboriginal Peoples

(1993) Aboriginal Peoples in Urban Centres. Ottawa: Minister of Supply and Services Canada

This interim publication of the Royal Commission provides a summary of Commission sponsored workshops in 1992 and 1993 into a range of urban issues, including governance. The Commission found a policy vacuum on urban Aboriginal issues generally, while noting that the Charlottetown Accord did arrive at a framework that included urban Aboriginal peoples. Citing the need to respect the diversity of urban Aboriginal communities, the Commission issued a set of questions in need of a response during its subsequent deliberations, including such issues as whether Canadians generally support urban Aboriginal peoples in their goal of preserving and promoting their distinct cultures, what roles urban Aboriginal people should play in policy development and how the inherent right of self-government will find application to urban centres. As such, this publication acts as a precis to the Commission's final report.

Royal Commission on Aboriginal Peoples

Governance for Aboriginal People in Urban Areas in (1996) Report of the Royal Commission on Aboriginal Peoples: Perspectives and Realities. Volume 4, Chapter 7. pp. 580-601. Ottawa: Minister of Supply and Services.

The final report of the Commission provides some 20 pages dedicated to the issue of urban Aboriginal governance, and essentially focuses on situating this challenge in the wider context of its "nation-to-nation" approach to the inherent right by calling for attention to be given to four models: an extra-territorial extension or application of a nation-specific authority to urban-based citizens; a host-nation acceptance and recognition of a more inclusive or city-wide authority of "out-of-territory" Aboriginal urban dwellers; an integrated provincial-level model primarily suited to Metis involving delegated urban authorities, and; an urban treaty nation model involving the establishment of urban treaty service centres providing service to urban Treaty persons, but under the governance of integrated Treaty authorities. In respect of other models or approaches not linked to "nation-based" governance, the Commission recommends in relation to the adaptation of public governments that new and expanded representation and co-management measures be put in place at the municipal, regional and sectoral levels in which Aboriginal people have a significant interest and where numbers warrant. In relation to stand-alone "community of interest" approaches, the Commission calls on the federal, provincial and municipal levels of government to foster and support requests to establish such governments or institutions, and participate in negotiations to establish their governments and assist in their operations. However, in neither the public government nor community of interest approach does the Commission see self-government operating as a matter of right.

D. Aboriginal Youth

Alfred, Gerald Taiaiake

A Review and Analysis of the Major Challenges and Concerns of Aboriginal Youth in Canada (1995) A research report prepared for the Royal Commission on Aboriginal Peoples in (1997) For Seven Generations. Ottawa. Libraxus

This paper reports on community based research conducted by the Royal Commission on Aboriginal Peoples and its "Youth Perspectives" research team. Recommendations - of a fairly generic nature - are reported in the areas of institutional reform, education, traditional knowledge, health, justice and policing.

Gilchrist, Lauri

Urban Survivors, Aboriginal Street Youth: Vancouver, Winnipeg and Montreal (1995) A Research report prepared for the Royal Commission on Aboriginal Peoples, in (1997) For Seven Generations. Ottawa. Libraxus

This research study reports on Aboriginal youth insights into life on the streets in Vancouver, Winnipeg and Montreal. The study probes why youth are on the streets, how they survive, what kinds of services they use and what changes they would like in the existing services provided for them. While reporting motivations and responses to street life that are common to non-Aboriginal youth generally, the study did find that Aboriginal cultural background, history, structural conditions and experiences on the street were distinct. Aboriginal youth were subject to harsher conditions than non-Aboriginal youth, mainly due to racism. The study reported identity confusion and self-hatred, dislocation from home communities, and ignorance about Aboriginal rights, history and culture. Recommendations are made on survival, addiction, exploitation, justice, in care youth, education, racism, and culture.

Pal, Leslie A.

Aboriginal Youth Policy: An Inventory and Analysis of Federal, Provincial and Territorial Programs, (1994) a research paper prepared for the Royal Commission on Aboriginal Peoples, in (1997) For Seven Generations. Ottawa. Libraxus

This research report provides an inventory of policy and programming for Aboriginal youth by Canadian federal, provincial and territorial governments. Canadian governments have since the 1960s developed policy frameworks dealing with youth in general, but there has never been an explicit and distinct framework for Aboriginal youth. Despite that lack of a policy framework, governments have developed various programs for Aboriginal youth which have been ad hoc and sporadic and are often small subset of youth initiatives. As far as programming goes, the federal government seems to deal primarily with the economic side and leaves the social/health/cultural side to the provinces or to Aboriginal people themselves.



The study made a number of key recommendations:

- ◆ Develop a policy focus/framework for Aboriginal youth. More attention on the underlying logic of what governments are trying to do in the area could contribute to clearer policy design and program delivery.
- ◆ Recognize the balance between instrumental and non-instrumental programming.
- ◆ Recognize the importance of local control.
- ◆ Explore alternative models. Canadian programming for Aboriginal youth has been markedly unimaginative, therefore future policy-making in this field should make a conscious effort to seek out alternative models drawn from other jurisdictions.

Royal Commission on Aboriginal Peoples

The Search for Belonging: Perspectives on Youth in (1996) Report of the Royal Commission on Aboriginal Peoples: Perspectives and Realities. Volume 4, Chapter 4. pp. 147-195. Ottawa: Minister of Supply and Services.

The Commission's main recommendations relating to youth incorporate their findings and conclusions on urban youth (developed through a variety of youth forums and round-tables) into a wider discussion of Aboriginal youth generally. The Commission calls for a new national framework for a "Canada-Wide Aboriginal Youth Policy", and sets out recommended goals and program areas, as well as a process in which Aboriginal youth can convene biennially for national conferences to review progress and set new and emergent priorities for action. The Commission stressed the need for all governments, including Aboriginal governments, to accommodate youth participation at all levels, leadership development programs, cultural rebirth and spiritual development, as well as a range of specific initiatives in the areas of education, justice, health, housing, economic empowerment, sports and recreation. Regarding urban Aboriginal youth, the Commission called for innovative programs to assist in bridging choice as between traditional and urban worlds.

URBAN YOUTH PROGRAM DOCUMENTATION & SURVEY ANALYSIS

A Note on Sources and Methodology

In order to move from a conceptual review of key issues to the point of consulting directly on urban Aboriginal governance and youth concerns, our project first reviewed available documentation on urban youth programs. This was in part to solicit information on potential sites for more detailed assessment through focus circles, and in part to gain a broad-brush understanding of what kinds of urban youth and related initiatives have been in operation over the past few years, and which kinds of projects or programs have been successful. In this respect, we did not want to replicate the various studies done on urban issues and initiatives, or that of youth, already accomplished by the Royal Commission on Aboriginal Peoples. Instead, our goal was to determine the current and very recent nature of initiatives, and to seek input from program personnel as to criteria or indicators for success, or failure.

A standardized questionnaire on urban youth was sent out to a wide range of institutions, including all Friendship Centres and to regional affiliates of national Aboriginal organizations such as the Assembly of First Nations, the Metis National Council, the Congress of Aboriginal Peoples, and the Native Womens' Association of Canada. The Aboriginal Youth Council (AYC) was consulted in advance on the design of the questionnaire and its delivery. This "fax-back" survey was followed up by telephone calls at regular intervals, which resulted in sufficient completed questionnaires to permit us to select a range of sites for more detailed attention through focus circles (see Annex 3).

In addition, our analysts at the National Association of Friendship Centres sought information from federal and, where potential existed, provincial/territorial governments as to direct urban youth initiatives in order to supplement information gleaned from the questionnaires.

The following reports the raw responses to the fax-out survey, including the questions posed to recipients. Note that in fax-back responses recorded from "No-Name" sources, all those numbered 1-12 refer to a single Friendship Centre the identity of which is not known. These responses are separate from the un-identified Friendship Centre noted as: No Name (Quebec). Rather than screen these results out, we have reported them here in order to insure full information to analysts.



YOUTH INITIATIVES BEST PRACTICES SURVEY: TABULATED RESPONSES

1. Initiative

<i>Centre</i>	<i>Program/Project</i>
Brantford	Youth Group
Edmonton 1	Youth Development Program
Edmonton 2	Youth Cultural Programs
Edmonton 3	Youth Peer Support Program
Fort Erie1	Youth Group
Fort Erie2	Crisis Intervention (activities allow for youth participation – not specifically youth oriented)
Fort Nelson	Youth Group
Halifax 1	Tobacco Reduction/Prevention Project
Halifax 2	Drum & Dance Group
Kamloops	Native Youth Awareness Centre
La Tuque	Day Evening Care Centre
Lloydminster	Youth Outreach
Montreal 1	Aboriginal AIDS Awareness
Montreal 2	Urban Youth Council/Youth Group
Nanaimo	Youth Group
No Name (Quebec)	Youth program
*No Name 1	Kulus Youth Group
No Name 2	Youth Outreach
No Name 3	Summer Day Camp
No Name 4	Family Recreation Night
No Name 5	Job Start
No Name 6	Youth Theatre Group
No Name 7	Employment Unit
No Name 8	Internet Training
No Name 9	Homework Club
No Name 10	Poster Contest
No Name 11	Youth Dance
No Name 12	Summer Employment Program '97 & '98
Prince George	Reconnect
Quesnel 2	Employment
Quesnel 1	Bowrun Lake Youth trip
Rankin Inlet 1	Drop In Centre for Youth & Elders
Rankin Inlet 2	Summer Day Camp
Rankin Inlet 3	Dances
Rankin Inlet 4	Youth presentation at community wellness conference
Rankin Inlet 5	Keewatin Regional Youth Conference
Saskatoon	Youth Group
Selkirk	Youth Group
Sudbury	Youth Group
Thunder Bay	Youth Group
Toronto Centre	Youth Group
Toronto Council Fire	7th Fire Youth Spirit
Val-d'Or 1	Native Youth Forum - Strategic Youth Initiatives HRDC
Val-d'Or 2	Youth Summer Employment (Students)
Winnipeg	Youth Drop In
Yellowknife	Reeling Program

2. Youth program goal/purpose.

<i>Centre</i>	<i>Goal/Purpose</i>
Brantford	To provide urban youth an avenue to achieve their own goals – support group
Edmonton 1	Provide recreation opportunities for urban Aboriginal youth
Edmonton 2	Cultural awareness and education.
Edmonton 3	Provide counselling/support/training for youth
Fort Erie1	To provide youth with opportunity to achieve educational, recreational skills as well as traditional teachings
Fort Erie2	Crisis intervention
Fort Nelson	To provide a drug & alcohol free environment for youth
Halifax 1	To provide cultural and recreational activities for youth
Halifax 2	To prevent solvent abuse by participating in a drum & dance group (ages 12-18)
Kamloops	Native Youth Awareness Centre
La Tuque	Day-Evening Care Centre
Lloydminster	Youth Outreach
Montreal 1	To provide Aboriginal AIDS awareness activities
Montreal 2	Urban Youth Council/Youth Group
Nanaimo	Youth Group
No Name (Quebec)	Develop employability - autonomy - respect of themselves
*No Name 1	Kulus Youth Group
No Name 2	Youth Outreach
No Name 3	Summer Day Camp
No Name 4	Family Recreation Night
No Name 5	Job Start
No Name 6	Youth Theatre Group
No Name 7	Employment Unit
No Name 8	Internet Training
No Name 9	Homework Club
No Name 10	Poster Contest
No Name 11	Youth Dance
No Name 12	Summer Employment Program '97 & '98
Prince George	To empower youth to make healthy lifestyle choices
Quesnel-1	Bowrun Lake Youth trip
Quesnel-2	Employment
Rankin Inlet 1	Drop In Centre for Youth & Elders
Rankin Inlet 2	Summer Day Camp
Rankin Inlet 3	Dances
Rankin Inlet 4	Youth presentation at community wellness conference
Rankin Inlet 5	Keewatin Regional Youth Conference
Saskatoon	To provide place for youth programming defined by youth
Selkirk	Cultural & recreational activities
Sudbury	To promote healthy lifestyles
Thunder Bay	To have youth determine their own activities with Centre support
Toronto Centre	To provide physical, cultural and educational activities
Toronto Council Fire	To bring culture and traditions to youth
Val-d'Or 1	Native Youth Forum – Strategic Youth Initiatives HRDC
Val-d'Or 2	Youth Summer Employment (Students)
Winnipeg	To provide a safe & stable environment, to keep kids off the street; crime prevention
Yellowknife	To support and strengthen Aboriginal culture through reeling



3. Is this youth project now underway, or is it over?

<i>Centre (if identified)</i>	<i>Current</i>	<i>Over</i>	<i>(How long ago?)</i>
Brantford	✓		
Edmonton 1	✓		
Edmonton 3	✓		
Fort Erie 1		✓	
Fort Erie 2		✓	3 years
Fort Nelson	✓		
Halifax 1		✓	2 years
Halifax 2		✓	2 years
Kamloops	✓		
La Tuque	✓		
Lloydminster	✓		
Montreal 1	✓		
Montreal 2	✓		
Nanaimo	✓		
No Name (Quebec)	✓		
*No Name 1		✓	6 months
No Name 2		✓	2 years
No Name 3		✓	2 years
No Name 4	✓		
No Name 5	✓		
No Name 6	✓		
No Name 7	✓		
No Name 8	✓		
No Name 9		✓	
No Name 10		✓	1 year
No Name 11		✓	6 months
No Name 12		✓	1 month
Prince George	✓		
Quesnel 1	Annual event		
Quesnel 2	✓		
Rankin Inlet 1	✓		
Rankin Inlet 2	✓		
Rankin Inlet 3	✓		
Rankin Inlet 4		✓	
Rankin Inlet 5		✓	
Saskatoon	✓		
Selkirk	✓		
Sudbury	✓		
Thunder Bay	✓		
Toronto Centre	✓		
Toronto Council Fire	✓		
Val-d'Or 1		✓	
Val-d'Or 2		✓	
Winnipeg	✓		
Yellowknife	✓		

3.A. If over, why did program end?

<i>Centre</i>	<i>Why did program end?</i>
Fort Erie1	no funding
Fort Erie2	no funding
Halifax1	funding ran out
Halifax2	lack of funding
*No Name 1	funding ended
No Name 2	funding ended
No Name 3	funding ended
No Name 9	funding constraints
No Name 10	project ended
No Name 11	project ended
No Name 12	end of season
Rankin Inlet 4	one-time conference
Rankin Inlet 5	one-time conference
Val-d'Or 1	one day forum - March 1998
Val-d'Or 2	students have returned to school

4. Type of Program

Health

<i>Centre</i>	<i>Description</i>
Fort Erie1	workshops on current health issues
Halifax1	reduce use of tobacco through alternative activities
Montreal 1	AIDS awareness
No Name (Quebec)	Sante Canada - drug abuse agenda
Rankin Inlet 4	talked about health issues in the community
Sudbury	physical activities
Toronto Centre	workshops with health officials
Winnipeg	hot meals offered every evening for 30-50 youth

Education

<i>Centre</i>	<i>Description</i>
Fort Erie1	had tutor on site
No Name (Quebec)	student driven learning centre
No Name 9	to assist school aged children 7-12 years complete homework assignments after school
No Name 10	to focus on the problem of drinking & driving among youth
Rankin Inlet 5	counselling skills, suicide prevention
Sudbury	will be offering educational events
Thunder Bay	AIDS awareness; youth moms; anti-racism
Toronto Centre	tutoring and study time
Val-d'Or 1	information provided by school boards & university
Winnipeg	community resource speakers on HIV/AIDS, sex education, etc.



Recreation	
<i>Centre</i>	<i>Description</i>
Edmonton 1	programs to enhance recreational opportunities for urban youth 6-18 years of age (includes daycamps, camping trips, sports, games & crafts)
Fort Erie 1	sports night
Halifax 1	various sports activities
No Name 3	Summer Day camp for children ages 7-12
No Name 4	Sports, games, crafts, story-telling, singing, dancing, drumming etc. for families 0 - 80+. Recreation, social & cultural components
Rankin Inlet 2	swimming, gym time, baseball, hiking
Rankin Inlet 5	gym sports
Saskatoon	basketball, baseball, floor hockey, volleyball
Selkirk	2 times weekly gym activities
Sudbury	fun, stress free activities
Toronto Centre	baseball, volleyball, fully equipped gym
Winnipeg	arts & crafts, rollerskating, bowling, field trips

Social	
<i>Centre</i>	<i>Description</i>
Fort Erie 1	interaction with other youth programs
No Name 11	to allow youth to have a great time without using alcohol or drugs
Prince George	street youth program providing dances, gym nights, etc.
Rankin Inlet 1	safe place for all youth to hang out to learn about working together
Rankin Inlet 2	learning to work together between children & youth
Rankin Inlet 3	run dances 2 time every month
Rankin Inlet 5	dance
Sudbury	allow for interaction with other youth
Toronto Centre	Thursdays and special events
Val-d'Or 1	youth had opportunity to express their views on how they can improve their quality of life

Language, Culture, Traditional

<i>Centre</i>	<i>Description</i>
Edmonton 2	Cree language, cultural ceremonies, contact with elders, dance and drum classes.
Fort Erie 1	drumming and dancing
Halifax 1	cultural activities i.e. traditional uses of tobacco
Halifax 2	drumming & dancing and traditional practices
No Name (Quebec)	Centre d'Interpretation Culture Autochtone
Rankin Inlet 2	elder comes to tell stories, bannock-making, tea-boiling
Rankin Inlet 5	talks, drum & dance - by an elder
Saskatoon	traditional department @ Centre, elders
Selkirk	once a week - 2 elders - dancing all ages - regalia, drumming, teachings, etc.
Sudbury	knowledge to Native culture
Thunder Bay	drumming, pow-wows
Toronto Centre	available for whole community
Toronto Council Fire	biweekly meetings; socials, annual youth gathering; elders/speakers
Val-d'Or 1	special guest were invited to speak on culture and traditions
Winnipeg	Elders
Yellowknife	reeling is a cultural activity as well as being any enjoyable function.

Job training

<i>Centre</i>	<i>Description</i>
Fort Erie 1	Internet; one-on-one and employment office
No Name (Quebec)	Service Jeunesse Canada (8 youth) Carrefour Jeunesse Emploi
No Name 12	work experience for Aboriginal youth
No Name 5	targeted wage subsidies to assist youth ages 17-24 to gain work experience
No Name 6	assist youth to develop marketable transferable job skills
Quesnel-2	employment/training for job opportunities
Rankin Inlet 1	hiring high school students for volunteer for school credit
Ranking Inlet 2	teaching young adults to work in a day care setting
Toronto Centre	resume writing and job search techniques available
Val-d'Or 1	information on employment integration
Val-d'Or 2	provided students with work experience and training (on-the-job)

Life Skills

<i>Centre</i>	<i>Description</i>
Rankin Inlet 4	making presentations about wellness issues
Sudbury	role modeling from adult volunteers



Justice, policing, anti-gang

<i>Centre</i>	<i>Description</i>
Fort Erie 1	workshops with police office presenters
Prince George	support & advocacy for court visits to youth containment; youth drop in
Toronto Centre	race relations workshop with police
Val-d'Or 1	youth had opportunity to express views, opinions & experiences related to violence & racism

Other

<i>Centre</i>	<i>Description</i>
Brantford	group meets weekly and tries to touch on as many of the above areas as possible throughout the program
Edmonton 3	provides ongoing training & support for Aboriginal youth
Fort Nelson	guest speakers on all of the above topics
Kamloops	includes recreation workshops, storefront school with Education Coordinator, drop in activities; culture incorporated into all activities, field trips; family/youth counselling
La Tuque	information sessions, dances, baseball, employment
Lloydminster	encompasses many areas, ie. education, social, cultural and life skills - according to the needs of youth
Montreal 2	Youth council - all issues faced by Montreal youth
Nanaimo	all encompassed under youth group
No Name (Quebec)	family Support - Community Agent
No Name 1	social & recreational program for youth ages 13-18 with strong education, health & cultural components
No Name 2	to determine what programs & services local youth were interested in
No Name 7	provide job search assistance
No Name 8	provide instruction to use of internet & access to internet for job seekers, research, etc.
Quesnel-1	physically challenging, 75 mile chain of lakes, 8-10 days, group participation canoe/portage, Aboriginal focus, support, recognition, fetal alcohol effected youth or youth at risk.
Saskatoon	Aboriginal cadets in early stages of development
Sudbury	leadership skills (events run by youth)

5. Funder (please note the amount or percent involved).



<i>Centre</i>	<i>Federal</i>	<i>Prov/Terr</i>	<i>City</i>	<i>Other</i>
Brantford		100% AHWS		
Edmonton 1		✓		✓
Edmonton 2		✓		✓
Edmonton 3		✓		
Fort Erie 1	✓			
Fort Erie 2		✓		
Fort Nelson		✓		
Halifax 1	100% Health & Welfare			
Halifax 2	100% Health Canada			
Kamloops				various
La Tuque	70%	20%		10%
Lloydminster	100%			
Montreal 1	100%			
Montreal 2	100%			
Nanaimo		100%		
No Name (Quebec)	60%	35%	5%	
No Name 1		100%		
No Name 2	100%			
No Name 3	100%			
No Name 4		100%		
No Name 5		100%		
No Name 6	100%			
No Name 7	100%			
No Name 8		100%		
No Name 9		100%		
No Name 10				100%
No Name 11				100%
No Name 12	100%			
Prince George		✓		fundraising
Quesnel 1			✓	✓
Quesnel 2	✓			
Rankin Inlet 1		✓		
Rankin Inlet 2		✓		
Rankin Inlet 3				fundraising
Rankin Inlet 5		✓		
Saskatoon				fundraising
Selkirk	✓			fundraising
Sudbury		✓		
Thunder Bay		100% AHWS		
Toronto Centre				fundraising
Toronto Council Fire				fundraising
Val-d'Or 1	HRDC			
Val-d'Or 2	✓			✓
Winnipeg				100% United Way
Yellowknife				fundraising



6. Duration

<i>Centre</i>	<i>Permanent</i>	<i>Seasonal</i>	<i>Short-term</i>
Brantford	✓		
Edmonton 1	✓		
Edmonton 2	✓		
Edmonton 3	✓	✓	✓
Fort Erie2			✓
Fort Nelson	✓		
Halifax 1			✓
Halifax 2			✓
Kamloops	varies	varies	varies
La Tuque	✓		
Lloydminster	✓		
Montreal 1	✓		
Montreal 2			✓
Nanaimo	✓		
No Name (Quebec)	✓		
No Name 1			✓
No Name 2		✓	
No Name 3		✓	
No Name 4	✓		
No Name 5			✓
No Name 6			✓
No Name 7			✓
No Name 8			✓
No Name 9			✓
No Name 10			✓
No Name 11			✓
No Name 12		✓	
Prince George	✓		
Quesnel 1		✓	
Quesnel 2	✓		
Rankin Inlet 1	✓		
Rankin Inlet 2		✓	
Rankin Inlet 3	✓		
Rankin Inlet 4			✓
Rankin Inlet 5			✓
Saskatoon	Sports, Culture & Recreation	Summer employment	
Selkirk	✓		
Sudbury	✓		
Thunder Bay	✓		
Toronto Centre	✓		
Toronto Council Fire	✓		
Val-d'Or 1			✓
Val-d'Or 2			✓
Winnipeg	✓		
Yellowknife		✓	



7. Who initiated the program or project?

<i>Centre Name</i>	<i>Centre</i>	<i>Youth Group</i>	<i>Group 1</i>	<i>Owner</i>
Brantford	✓			
Edmonton 1	✓	✓		
Edmonton 2	✓			
Edmonton 3	✓	✓		
Fort Erie2	✓			
Fort Nelson	✓			
Halifax 1	✓			
Halifax 2	✓			
Kamloops	✓	✓		
La Tuque	✓	✓		
Lloydminster	✓			
Montreal 1	✓			
Montreal 2	✓			
Nanaimo	✓	✓		
No Name (Quebec)	✓			
No Name 1	✓			
No Name 2	✓			
No Name 3	✓			
No Name 4	✓			
No Name 5			✓	
No Name 6			✓	
No Name 7			✓	
No Name 8			✓	
No Name 9	✓			
No Name 10				✓
No Name 11	✓			✓
No Name 12			✓	
Prince George			✓	Community resource worker
Quesnel 1	✓			
Quesnel 2	✓			
Rankin Inlet 2	✓			
Rankin Inlet 3		✓		
Rankin Inlet 4		✓		
Rankin Inlet 5	✓			
Saskatoon		✓		
Selkirk	✓	✓		
Sudbury	✓			
Thunder Bay	✓			
Toronto Centre	✓	✓		
Toronto Council Fire				Interested community member
Val-d'Or 1	✓			
Val-d'Or 2	✓			
Winnipeg	✓			
Yellowknife	✓			



8. Who determined its design?

<i>Centre Name</i>	<i>Centre</i>	<i>Youth Group</i>	<i>Gov't</i>	<i>Other</i>
Brantford	✓			
Edmonton 1	✓			
Edmonton 2	✓			
Edmonton 3	✓	✓		
Fort Erie 1	✓			
Fort Erie 2	✓			
Fort Nelson	✓			
Halifax 1	✓			
Halifax 2	✓			
Kamloops	✓	✓		Education commission
La Tuque	✓	✓	✓	
Lloydminster	✓			
Montreal 1	✓			
Montreal 2	✓			
Nanaimo	✓	✓		
No Name (Quebec)	✓			
No Name 1	✓			
No Name 2	✓			
No Name 3	✓			
No Name 4	✓			
No Name 5			✓	
No Name 6	✓			
No Name 7	✓		✓	
No Name 8			✓	
No Name 9	✓			
No Name 10	✓			
No Name 11	✓			✓
No Name 12	✓		✓	
Prince George	✓	✓	✓	
Quesnel 1	✓			resource worker
Quesnel 2	✓			
Rankin Inlet 3		✓		
Rankin Inlet 4		✓		
Rankin Inlet 5	✓			
Saskatoon		✓		
Selkirk	✓	for activities		Youth Council (university students)
Sudbury	✓			
Thunder Bay	✓			
Toronto Centre	✓	✓		
Toronto Council Fire		✓		
Val-d'Or 1	✓			
Val-d'Or 2	✓			
Winnipeg	✓			
Yellowknife	✓			Instructor

9. Who controlled its delivery?

<i>Centre Name</i>	<i>Centre</i>	<i>Youth Group</i>	<i>Gov't</i>	<i>Other</i>
Brantford	✓			
Edmonton 1	✓			
Edmonton 2	✓			
Edmonton 3	✓	✓		
Fort Erie 1	✓			
Fort Erie 2	✓			
Fort Nelson	✓			Youth worker
Halifax 1	✓			
Halifax 2				Mupmaq Child Development Centre
Kamloops	✓			
La Tuque	✓	✓	✓	
Lloydminster	✓		✓	
Montreal 1	✓			
Montreal 2	✓	✓	✓	
Nanaimo	✓			
No Name (Quebec)	✓	✓		
No Name 1	✓			
No Name 2	✓			
No Name 3	✓			
No Name 4	✓			
No Name 5			✓	
No Name 6	✓		✓	
No Name 7	✓		✓	
No Name 8	✓		✓	
No Name 9	✓			
No Name 10	✓			
No Name 11	✓			
No Name 12	✓		✓	
Prince George	✓	✓	✓	
Quesnel 1	✓			Community Worker
Quesnel 2	✓			
Rankin Inlet		✓		
Rankin Inlet 2	✓			
Rankin Inlet 3	✓			
Rankin Inlet 4		✓		
Rankin Inlet 5	✓			
Saskatoon		✓		
Selkirk	✓			
Sudbury	✓			
Thunder Bay	✓			
Toronto Centre	✓	✓		
Toronto Council Fire		✓		
Val-d'Or 1	✓			
Val-d'Or 2	✓			
Winnipeg	✓			
Yellowknife	✓			Indigenous



10. How was/is the program made accountable to the urban Aboriginal community?

<i>Centre Name</i>	<i>Representative Body</i>	<i>Youth Group</i>	<i>Centre</i>	<i>Other</i>
Brantford	✓	✓		
Edmonton 1	✓		✓	
Edmonton 2	✓		✓	
Edmonton 3	✓	✓	✓	
Fort Erie 1	✓			
Fort Erie 2				driven by the people
Fort Nelson		✓	✓	community involvement
Halifax 1	✓			
Halifax 2				parents & children were evaluators
Kamloops	1st Nation Education Council		✓	
La Tuque		✓	✓	
Lloydminster	✓			
Montreal 1			✓	
Montreal 2		✓	✓	
Nanaimo		✓		
No Name (Quebec)	✓		✓	
No Name 1			✓	
No Name 2			✓	
No Name 3			✓	
No Name 4			✓	
No Name 5			✓	
No Name 6			✓	
No Name 7			✓	
No Name 8			✓	
No Name 9			✓	
No Name 10			✓	
No Name 11			✓	
No Name 12			✓	
Prince George			✓	
Quesnel 1			✓	
Quesnel 2			✓	target Aboriginal youth on & off reserve
Rankin Inlet 1		✓		
Rankin Inlet 2		✓		
Rankin Inlet 3		✓		
Rankin Inlet 4		✓		
Rankin Inlet 5		✓		
Saskatoon	✓			
Selkirk	✓			
Sudbury	✓			
Thunder Bay	✓			
Toronto Centre	✓	✓		
Toronto Council Fire	✓			Friendship Centre Executive
Val-d'Or 1			✓	
Val-d'Or 2	✓		✓	
Winnipeg	✓			
Yellowknife			✓	

11. Is there an evaluation, assessment or report on the program's accomplishments?



<i>Centre</i>	<i>Yes</i>	<i>No</i>
Brantford	✓	
Edmonton 1		✓
Edmonton 2		✓
Edmonton 3		✓
Fort Erie		✓
Fort Erie 2		✓
Halifax 1	✓	
Halifax 2		✓
Kamloops	✓	
La Tuque		✓
Montreal 1	✓	
Montreal 2		✓too early
Nanaimo	✓	
No Name (Quebec)	✓	
No Name 1		✓
No Name 2		✓
No Name 3		✓
No Name 4		✓
No Name 5		✓
No Name 6		✓
No Name 7		✓
No Name 8		✓
No Name 9		✓
No Name 10	✓	
No Name 11	✓	
No Name 12	✓	
Prince George	✓	
Quesnel 1	✓	
Quesnel 2		✓
Rankin Inlet 1	✓	
Rankin Inlet 2	✓	
Rankin Inlet 3	✓	
Rankin Inlet 4	✓	
Rankin Inlet 5	✓	
Saskatoon	✓	
Selkirk	✓	
Sudbury	✓	
Thunder Bay		✓
Toronto Centre	✓	
Toronto Council Fire	✓	
Val-d'Or 1	✓	
Val-d'Or 2	✓	
Winnipeg	✓	
Yellowknife	✓	



12. Overall, was the project or program a success?

<i>Centre</i>	<i>Yes</i>	<i>No</i>	<i>Don't Know</i>
Brantford	✓		
Edmonton 1	✓		
Edmonton 2	✓		
Edmonton 3	✓		
Fort Erie	✓		
Fort Erie 2	✓		
Halifax 1	✓		
Halifax 2	✓		
Kamloops	✓		
La Tuque	✓		
Lloydminster	✓		
Montreal 1	✓		
Montreal 2			too early
Nanaimo	✓		
No Name (Quebec)	✓		
No Name 1	✓		
No Name 2	✓		
No Name 3	✓		
No Name 4	✓		
No Name 5			✓
No Name 6	✓		
No Name 7	✓		
No Name 8	✓		
No Name 9	✓		
No Name 10	✓		
No Name 11	✓		
No Name 12	✓		
Prince George			✓
Quesnel 1	✓		
Quesnel 2	✓		
Rankin Inlet 1	✓		
Rankin Inlet 2	✓		
Rankin Inlet 3	✓		
Rankin Inlet 4	✓		
Rankin Inlet 5	✓		
Saskatoon	✓		
Selkirk	✓		
Sudbury	✓		
Thunder Bay			Too new to tell
Toronto Centre	✓		
Toronto Council Fire	✓		
Val-d'Or 1	✓		
Val-d'Or 2	✓		
Winnipeg	✓		
Yellowknife	✓		

13. If the program was a success, how important was the involvement of youth in controlling:
A. The design of the program?



Centre	Very Important	Somewhat Important	Not Very Important	Not Important	Youth not involved in design
Brantford	✓				
Edmonton 1		✓			
Edmonton 2			✓		
Edmonton 3		✓			
Fort Erie	✓				
Fort Erie 2	✓				
Halifax 1	✓				
Halifax 2	✓				
Kamloops	✓				
La Tuque	✓				
Lloydminster					✓
Montreal 1		✓			
Montreal 2		✓			
Nanaimo	✓				
No Name (Quebec)	✓				
No Name 1		✓			
No Name 2		✓			
No Name 3		✓			
No Name 4		✓			
No Name 5		✓			
No Name 6		✓			
No Name 7		✓			
No Name 8		✓			
No Name 9		✓			
No Name 10		✓			
No Name 11	✓				
No Name 12		✓			
Prince George	✓				
Quesnel 1		✓			
Quesnel 2		✓			
Rankin Inlet 1	✓				
Rankin Inlet 2	✓				
Rankin Inlet 3	✓				
Rankin Inlet 4	✓				
Rankin Inlet 5	✓				
Saskatoon	✓				
Selkirk	✓				
Sudbury		✓			
Thunder Bay	✓				
Toronto Centre	✓				
Toronto Council Fire	✓				
Val-d'Or 1	✓				
Val-d'Or 2	✓				
Winnipeg	✓				
Yellowknife	✓				



**13. If the program was a success, how important was the involvement of youth in controlling:
B. The delivery of the program?**

<i>Centre</i>	<i>Very Important</i>	<i>Somewhat Important</i>	<i>Not Very Important</i>	<i>Not Important</i>	<i>Youth not involved in design</i>
Brantford		✓			
Edmonton 1		✓			
Edmonton 2			✓		
Edmonton 3		✓			
Fort Erie	✓				
Fort Erie 2	✓				
Halifax 1	✓				
Halifax 2	✓				
Kamloops	✓				
La Tuque	✓				
Montreal 1	✓				
Nanaimo		✓			
No Name (Quebec)	✓				
No Name 1	✓				
No Name 2	✓				
No Name 3	✓				
No Name 4		✓			
No Name 6	✓				
No Name 7		✓			
No Name 8		✓			
No Name 9	✓				
No Name 10	✓				
No Name 11	✓				
No Name 12	✓				
Prince George	✓				
Quesnel 1	✓				
Quesnel 2		✓			
Rankin Inlet 1	✓				
Rankin Inlet 2	✓				
Rankin Inlet 3	✓				
Rankin Inlet 4	✓				
Rankin Inlet 5	✓				
Saskatoon	✓				
Selkirk	✓				
Sudbury	✓				
Thunder Bay	✓				
Toronto Centre	✓				
Toronto Council Fire	✓				
Val-d'Or 1	✓				
Val-d'Or 2	✓				
Winnipeg	✓				
Yellowknife	✓				

14. If the program was not seen as successful, what were the main reasons?

<i>Centre</i>	<i>Main reasons</i>
Fort Erie 1	insufficient resources

15. Has the program helped to reduce Youth problems?

<i>Centre</i>	<i>Yes</i>	<i>No</i>	<i>Don't Know</i>	<i>Describe</i>
Brantford	✓			lower rate of recidivism
Edmonton 1	✓			provide youth with alter native activities (other than "hanging out"). Reduces crime in the area. Programs are free.
Edmonton 2	✓			program has helped youth re-connect with the Aboriginal community
Edmonton 3	✓			provides emotional support, positive role models & training to help other youth
Fort Erie 2	✓			accountability to one another. Centre was a diversion from alcohol and drugs
Fort Nelson	✓			fewer teens in trouble with the law, parents, we have a safe environment
Halifax 1	✓			made aware of Centre services
Halifax 2	✓			improvement in school; have started a family literacy program
Kamloops	✓			youth are involved, have input & support and a place to go
La Tuque	✓	✓		yes-some of the youth have chosen to go back to school - learned to know themselves better no-lack of funds, lack of resources
Lloydminster	✓	✓		yes -some have made good choices as a result no - some come to outreach but don't take advice - made harmful choices
Montreal 1	✓			been successful in involving youth & getting them interested in the programs - gives sense of responsibility & worth
Nanaimo	✓			gives them opportunity to feel comfortable coming to Centre
No Name 1	✓	✓		not of long enough duration
No Name 2	✓			contributed to the development of subsequent programs
No Name 3			✓	
No Name 4	✓			provide safe place for youth to "hang out"
No Name 5	✓			assists youth to access employment
No Name 6	✓			provides youth with employment, wages, training & an opportunity to contribute to the community
No Name 7	✓			has assisted over 100 people (50% youth ages 17-30) to find employment
No Name 8	✓			provides another source of job search & research information
No Name 9			✓	



15. Has the program helped to reduce Youth problems? (continued)

<i>Centre</i>	<i>Yes</i>	<i>No</i>	<i>Don't Know</i>	<i>Describe</i>
No Name 10	✓			brought attention to the problem to the target group - youth ages 13-19
No Name 11	✓			focused youth attention on the fact that they could "party" without alcohol and/or drugs
No Name 12	✓			provides work experience & tuition money for Aboriginal youth
Prince George	✓			we are attracting more youth to preventative programs
Quesnel 1	✓			place of belonging/skill development/leadership/support/vision
Quesnel 2	✓			
Rankin Inlet 1	✓			less vandalism
Rankin Inlet 2	✓			less vandalism
Rankin Inlet 3	✓			reduced vandalism, drinking during those time
Rankin Inlet 4	✓			helped to create awareness to issues of community wellness with youth & rest of community
Rankin Inlet 5	✓			opened communication about suicide / abuse / healthy lifestyle choices
Saskatoon	✓			involved in sports
Selkirk	✓			activities keep them off the streets
Sudbury	✓	✓		cannot measure at this point - program is new
Thunder Bay	✓	✓		youth had no contact person at Centre until now (worker is new)
Toronto Centre	✓			core group advocates on their own behalf & encourages other youth to join
Toronto Council Fire	✓			identity, interacting with other Aboriginal youth - awareness of the good way of life
Val-d'Or 1	✓			stay-in school incentives, creation of youth council, access to information on training, education, entrepreneurship and employment integration
Val-d'Or 2	✓			provided valuable work experience for youth and also provided social and cultural activities for the youth
Winnipeg	✓			Centre offers a safe & supportive environment & many youth don't have that at home
Yellowknife			✓	

16. Overall, would you say this initiative has contributed to broader goals of Aboriginal autonomy or self-government in the urban area?



<i>Centre</i>	<i>Yes</i>	<i>No</i>	<i>Don't Know</i>	<i>Why?</i>
Brantford	✓			has given youth a better understanding and better control
Edmonton 1	✓			Aboriginal youth are encouraged to get involved with the Centre's other programs. Training & support of future leaders
Edmonton 2	✓			helps youth to understand their cultural "roots" & provide connection to cultural leaders, ie. elders
Edmonton 3	✓			contributes to a healthy Aboriginal population (now & future)
Fort Erie 1	✓			in the long range, yes, the cause of our stop and go program may give our youth the voice to speak and empower them to get control for the younger generation
Fort Erie 2	✓			empowerment for youth
Fort Nelson	✓			
Halifax 1	✓			allowed youth to realize that they have a voice & the right to be vocal
Halifax 2		✓		empowerment in education system
Kamloops	✓			all programs are instrumental in assessing needs at community level & making those needs known
La Tuque	✓			the population realizes that self-government comes when you take your life in hand
Lloydminster			✓	
Montreal 1	✓			program showed a need for an AIDS hospice geared for Aboriginal youth & youth council; youth identified a need to manage & run programs - don't look at it politically but as having the ability to take over their own businesses & service - all these programs contribute to this
Nanaimo		✓		still dealing with basic issues and identity at this point
No Name (Quebec)	✓			to get the youth involved, give them the chance to see that they are part of a group, essential to the continuity of life
No Name 1			✓	
No Name 2	✓			encouraged youth involvement in decision making process
No Name 3			✓	
No Name 4			✓	
No Name 5	✓			an Aboriginal organization has been awarded a contract to supply services to both Aboriginal and non-Aboriginal people



<i>Centre</i>	<i>Yes</i>	<i>No</i>	<i>Don't Know</i>	<i>Why?</i>
No Name 6	✓			allows Aboriginal youth & non-Aboriginal youth to work together to develop a community project
No Name 7	✓			contributes to the empowerment of Aboriginal people
No Name 8	✓			contributes to the empowerment of Aboriginal people
No Name 9			✓	
No Name 10	✓			contributes to the empowerment of Aboriginal youth
No Name 11	✓			contributes to the empowerment of Aboriginal youth
No Name 12	✓			contributes to the empowerment of Aboriginal youth
Prince George	✓			by education, supporting & advocating for youth to get their needs met, i.e. school, health, etc.
Quesnel 1	✓			building positive self-esteem/recognition of accomplishment/ownership of program/management
Quesnel 2	✓			people see the need to develop their own potential and opportunities available to them
Rankin Inlet 1	✓			more trust between youth & elders
Rankin Inlet 2	✓			more trust & group dynamics within children to young adults
Rankin Inlet 3	✓			initiated & promoted healthy social activities for youth & rest of community
Rankin Inlet 4	✓			built awareness of community wellness issues for the youth
Rankin Inlet 5	✓			helped to introduce future community leaders to each other (Nunavut-wide)
Saskatoon	✓			promotes Centre within the city
Selkirk	✓			acting as role models to younger kids, making own decisions
Sudbury			✓	cannot measure at this point - program is new
Thunder Bay	✓			self-motivation - empower them with a voice
Toronto Centre	✓			offers self-motivation and improved self-image
Toronto Council Fire	✓			group is basically independent; Council Fire contributes office space and any other support needed
Val-d'Or 1	✓			youth have expressed an interest in having programs designed and adapted to Aboriginal youth
Val-d'Or 2	✓			the work experience acquired by these youth is certainly an advantage for future employment opportunities with Aboriginal employers
Winnipeg			✓	try to be as non-political as possible due to Centre's mandate
Yellowknife			✓	

17. Thinking about the Aboriginal population in this city or town, which of the following statements would be most accurate?

A. The percentage of Aboriginal people using programs and services delivered by urban organizations like Friendship Centres, who are not living in the city or town itself, but instead come in from reserve, rural or other areas for these services, is:

Centre	under 10%	10 - 25%	25 - 50%	Over 50%	Don't Know
Brantford			✓		
Edmonton 1		✓			
Edmonton 2		✓			
Edmonton 3	✓				
Fort Erie 1					✓
Fort Erie 2	✓				
Fort Nelson				✓	
Halifax 1					✓
Halifax 2					✓
Kamloops			✓		
La Tuque		✓			
Lloydminster	✓				
Montreal 1		✓			
Nanaimo			✓		
No Name (Quebec)	✓				
No Name 1	✓				
No Name 2	✓				
No Name 3	✓				
No Name 4	✓				
No Name 5	✓				
No Name 6	✓				
No Name 7	✓				
No Name 8	✓				
No Name 9	✓				
No Name 10	✓				
No Name 11	✓				
No Name 12	✓				
Prince George					✓
Quesnel 1	✓				
Quesnel 2				✓	
Rankin Inlet 1					✓
Rankin Inlet 2					✓
Rankin Inlet 3					✓
Rankin Inlet 4					✓
Rankin Inlet 5					✓
Saskatoon		✓			
Selkirk	✓				
Sudbury	✓				
Thunder Bay		✓			
Toronto Centre	✓				
Toronto Council Fire		✓			
Val-d'Or 1			✓		
Val-d'Or 2			✓		
Winnipeg			✓		
Yellowknife	✓				

17. Thinking about the Aboriginal population in this city or town, which of the following statements would be most accurate?

B. The percentage of Aboriginal youth using programs and services delivered by urban organizations like Friendship Centres, who are not living in the city or town itself, but instead come in from reserve, rural or other areas for these services, is:

<i>Centre</i>	<i>under 10%</i>	<i>10 - 25%</i>	<i>25 - 50%</i>	<i>Over 50%</i>	<i>Don't Know</i>
Brantford		✓			
Edmonton 1		✓			
Edmonton 2		✓			
Edmonton 3	✓				
Fort Erie 1					✓
Fort Erie 2	✓				
Fort Nelson		✓			
Halifax1					✓
Halifax2					✓
Kamloops		✓			
La Tuque	✓				
Lloydminster			✓		
Montreal 1		✓			
Nanaimo			✓		
No Name (Quebec)				✓	
No Name 1	✓				
No Name 2	✓				
No Name 3	✓				
No Name 4	✓				
No Name 5	✓				
No Name 6	✓				
No Name 7	✓				
No Name 8	✓				
No Name 9	✓				
No Name 10	✓				
No Name 11	✓				
No Name 12	✓				
Prince George					✓
Quesnel 1	✓				
Quesnel 2			✓		
Rankin Inlet 1					✓
Rankin Inlet 2					✓
Rankin Inlet 3					✓
Rankin Inlet 4					✓
Rankin Inlet 5					✓
Saskatoon		✓			
Selkirk	✓				
Sudbury					✓
Thunder Bay			✓		
Toronto Centre	✓				
Toronto Council Fire	✓				
Val-d'Or 1		✓			
Val-d'Or 2		✓			
Winnipeg			✓		
Yellowknife	✓				

Thank you for helping us with this project. If you have any additional comments or suggestions that you would like to add, please write them in the following space.



<i>Centre</i>	<i>Comments</i>
Brantford	<ul style="list-style-type: none"> • majority of youth are on Community Service Orders • talking circles are used for the evaluations of activities • youth mentoring program: Ex. Dir. says it's not successful, worker says it is successful
Edmonton 1	<ul style="list-style-type: none"> • the youth development and recreation programs provide youth (& their families in some cases) with positive role models in the community. These programs draw youth into the Centre & the friendship centre movement overall. Programs are free or low cost and provide youth with opportunities they might not normally have
Edmonton 2	<ul style="list-style-type: none"> • cultural programs provide a vital link for youth & families wanting to re-connect with their Aboriginal community. This is especially true for youth who are presently or formerly in government care. The Centre is often one of the first organizations utilized when someone is seeking to re-discover their cultural heritage.
Edmonton 3	<ul style="list-style-type: none"> • Aboriginal Youth Peer Support Program and Drama program provides emotional & spiritual support for "at risk" Aboriginal youth. Recreation opportunities are provided and participants are encouraged to get involved with other Centre programs.
Fort Erie 1	<ul style="list-style-type: none"> • one big concern is the lack of involvement of parents; some parents don't see what we do, just what we don't do; lack of encouragement by parents; as part of a new program would like to include certain things for parents
Halifax1	<ul style="list-style-type: none"> • major centre for educational purposes • multi purpose centre for youth activities • education and entrepreneurialship needed • lack of role models • only used tobacco component to secure funding for project • now an unofficial youth group
Prince George	<ul style="list-style-type: none"> • a difficult questionnaire as our program is pre-existing and very broad. • age group is 12-24 - approximately 65% of the youth we serve identify themselves as Aboriginal (not necessarily status)
Quesnel 2	<ul style="list-style-type: none"> • Aboriginal people benefit from employment & training programs offered by the Friendship Centres as there are no other services in the Quesnel area that fund for Aboriginal clients. Most clients are on social assistance and cannot obtain funding dollars from the EI fund.
Rankin Inlet 5	<ul style="list-style-type: none"> • of the 46 participating youth, only 1 youth dropped out & left early
Saskatoon	<ul style="list-style-type: none"> • program is successful yet needs to grow • parents want an after-school program for youth • Aboriginal youth gangs emerging in Saskatoon • only have 1 worker who is very busy and must deal with all age groups - need workers or volunteers who can relate to youth

<i>Centre</i>	<i>Comments</i>
Selkirk	<ul style="list-style-type: none"> • program is growing, numbers of youth involved is also growing
Thunder Bay	<ul style="list-style-type: none"> • worker is new (2 months) • youth come in from northern reserves for education • trying to set up Youth Council - have a few very committed youth • current group has about 20-25 youth
Toronto Centre	<ul style="list-style-type: none"> • youth worker is actually one of several workers hired to work with the seniors but since there are no resources for youth, he is coordinating activities for them with no budget - youth fundraise for their activities • has submitted proposal to Crime Prevention Unit
Toronto Council Fire	<ul style="list-style-type: none"> • youth gathering - 40 - 50% from out of town • youth learn fundraising skills, report writing, organizational skills as well as drumming
Val-d'Or 1	<ul style="list-style-type: none"> • questionnaire should be made available in French for several friendship centres in Quebec
Winnipeg	<ul style="list-style-type: none"> • have positive incentive program; small cash award & certificate of merit - working very well • parents are informed - letters sent home - community networking in place • area has so many poverty stricken families • youth gangs in the city but the Centre tries to focus on prevention as opposed to intervention • trying to establish a Youth & Elder Council
Yellowknife	<ul style="list-style-type: none"> • program has 22 participants • meet weekly from September to June • performances throughout Yellowknife

FOCUS CIRCLE RESULTS

A Note on Methodology

Our research team had initially hoped to hold 5 or 6 focus groups across Canada to sample opinion on a range of matters of relevance to urban governance and Aboriginal youth. As it happened, the researchers were able to hold focus circles in 10 centres, which were selected by the Project Steering Committee on the basis of information received in the course of the fax-out surveys on urban youth initiatives, and in light of demographic, regional and operational considerations drawn from our literature review and our researchers' knowledge of urban governance and youth initiatives and conditions in Canada. The ten centres, as reported in the main dialogue paper, were drawn from a wider list of 25.

As with our fax-out survey instrument, the moderator's guide for the focus circles was reviewed in conjunction with not only the Project Steering Committee, but by the Aboriginal Youth Council. The Guide and instructions to coordinators are appended.

THE URBAN ABORIGINAL COMMUNITY

1. **First, lets have a discussion about the nature of this community - and particularly the Aboriginal residents and those who frequently use services and programs based here.**

*Size of Aboriginal community: make-up in relation to different
⇒ Aboriginal origins, status, etc.
Relations between different Aboriginal groups regarding the
⇒ population in this urban area.*

St. John's

- 1500 - StatsCan 96 self-identified
- seems like a lot of single mothers - majority Inuit
- people at university stick together
- social activities draw people together
- religion is not an inhibitor to interaction

Happy Valley

- community now 50 years old
- Métis and Inuit - distinctions are blurred - hard to tell difference
- not many Innu - just in for services

Toronto Council Fire

- 70K - active population is 2K - 5K
- not 1 of 10 filled in census in 1996
- status vs. non-status is an issue
- many people searching for identity
- some tension when mixed blood and full bloods meet
- too much tendency to exclude people by saying "don't think white"
- very big transient population - bright lights - looking for work



Winnipeg

- urban community - north end predominately Aboriginal
- perception - 80K status, at least as many Metis
- Winnipeg 600K - youth population will be swelling
- Metis is not just white/Indian mix - black and Chinese, etc.
- the word Metis is strictly defined (doesn't sit well with kids because it doesn't reflect the mix)
- traditional is mostly older people, Youth see just Native
- unity is a big theme - drop barriers
- friendship centre is the first place people go

Selkirk

- community has a big Aboriginal population, home community for Peguis
- Ukrainian, Polish
- mobility - people from reserves to here for jobs
- healing centre draws people from all over - even Labrador

Edmonton

- community - 2nd largest - fur trade centre - 40,000
- overlap but almost all Cree (most from Sask.) some from north
- people feel like they stand out
- high concentration in low cost housing
- First Nations and Metis - if around \$ big problems - generally okay but Metis have identity problem - reverse discrimination
- older people have the biggest problems
- usually revolves around access to services
- problems - Bill C32
- small Inuit population - centre for Inuit - some Inuit involvement in social activities - stick to themselves
- big % of Aboriginal population (40-60%) participate in programs, services, socials, etc.
- small population of Aboriginal people participate in mainstream.

Whitehorse

- 60% of people from all over (Alberta, Sask.)
- lifestyle draws people to get away from big cities
- closer to nature
- self-government brings people here
- 4 or 5 major bands - but many others even Americans

Vancouver

- 60K in area
- diversity - many different First Nations, Canada and US (Mexico) - lots of Cree from Alberta, Sask. and Manitoba
- there are Metis organizations

Nanaimo

- size 5000 - 3 reserves
- small areas, people live all over - big mix
- lots of mobility due to college

2. Probe perceptions of Aboriginal youth population:

- ⇒ What % of Total?
- ⇒ Is this higher or lower than normal?
- ⇒ Discuss the characteristics of the youth population - are they usually living with their families; boarding; are they highly mobile in and out of this community?

St. John's

- youth population is increasing
- students aren't centralized

Happy Valley

- youth population is normal - always been like this
- majority of youth are resident
- some people have big difficulties in transition "can't hack Goose Bay" - transition from small Aboriginal-only community to larger Aboriginal minority (Goose Bay) is difficult
- language is the first thing to go when races meet

Winnipeg

- youth - large population - school overcrowding
- mobility - some from schools - many people coming in and out
- hard to go back to reserve or community - stigmatized for being away.

Selkirk

- youth are into alcohol & drugs
- there is no outlet for them
- gangs - no active stuff but there is influence

Vancouver

- stable if living with family
- unstable - mostly mobile and street related - more in summer
- poverty around 90%
- curb kids - stuck in the middle between schools and programs

3. Now, lets briefly discuss relations between Aboriginal and non-Aboriginal people in this area:

- ⇒ Are there points of contention or friction over certain issues?
- ⇒ Do local authorities encourage Aboriginal involvement in design or delivery of programs and services?

St. John's

- lots of people are just outside St. John's
- general tone - racism - some on the street but organizations are engaged in outreach
- some at younger levels experience racism
- less cohesion in St. John's than at home
- relations with police not good - based on profiling
- youth training for RCMP - participated in RCMP testing
- real difference between RCMP and RNC
- expression of lack of fairness in application of law
- media contributes to negative stereotyping



Happy Valley

- not many problems - seem to get along
- in some places there is tension - directed at North (Nain)
- police program is almost all Aboriginal
- police try and use locals to intervene in schools

Toronto Council Fire

- discrimination - not much problem - people are people
- friction between Aboriginal and Aboriginal - pecking order Apple, authority & Aboriginal police, social services (bad relations), evangelist groups both within and outside community
- municipal government - not joint work, no involvement
- provincial government - some involvement

Winnipeg

- policing - very bad relations - no training
- gangs - getting worse in city, gangs expanding, recruiting - to change, start with kids - intervention, better way of life
- education - 2 schools controlled by Aboriginal community - good or bad? mostly good - traditional crafts and language

Selkirk

- everyone gets along - no real tensions
- police relations - good - community takes care of "bad apples"

Edmonton

- relations have come a long way
- stereotyping is still there
- some problems in bigger schools with intolerance
- the lower the social strata the worse the relations
- some difficulty in housing and policing
- city-wide relations - new Urban Aboriginal Affairs Centre and Policy Advisory Board
- social services more effective

Whitehorse

- some problems but mostly okay
- close scrutiny in stores is noticeable
- almost like fear by some white people
- discrimination to youth in general
- 25 seems to be a cut off - they set attitude
- with police, some very bad relations - recent billing? of youth has produces great resentment
- young constables are not trained properly in cross cultural relations - French Canadians seem to be the worst

Vancouver

- generally good relations except pow wow night and west coast nights - need to compromise
- political groups are in conflict as always
- under scrutiny from non-Aboriginal community, i.e. store security intense
- discrimination in services
- in school, no attention paid to Aboriginal culture or traditions



Nanaimo

- friction reduced by advanced cultural awareness
- 50 support workers - 1 in every school
- First Nations Advisory Committee works with school board on cultural curriculum for friendship centre, 3 reserves and Metis
- City Council - symbolic - no real involvement with Council - "We like it just the way it is"

ENGAGING YOUTH IN GOVERNANCE

1. First, what, in your views, are the main priorities for youth in this urban area?

St. John's

- annual Aboriginal gatherings (more often) - support
- more community services - support groups
- Native Liaison officer at university - should be at college
- enhanced services in public and secondary schools - no tutoring or special ed. Advice
- in St. John's more Aboriginal education - more up to date
- resolution to land claims in Labrador and Newfoundland
- employment - where do you want to work - 1st at home - in St. John's there's no work, little hope for youth not in school - high unemployment rate
- jobs #1 priority

Happy Valley

- land claims process has been very divisive - Inuit do not handle situation well, criteria always changing
- very hard on youth - no one knows who they are

Selkirk

- education, language
- health
- economic development
- more job opportunities - training is implicit
- more awareness and prevention projects and programs, learn to cope in town
- use recreation facilities better
- money and stability of financing
- ask youth what they want - empowerment

Whitehorse

- get along, work together - unity - new government structure to include elders, youth and others
- recreation
- Aboriginal justice - alternative sentencing
- health - better drug & alcohol control - healing centres
- education - Aboriginal school
- reformed policing system
- public education
- more youth workshops
- better transportation



Vancouver

- some Aboriginal involvement on school board - dependent on # of kids in school
- outreach alternate schools
- treaty process more focused in smaller places - racism is greater in smaller towns
- more programs for youth for involvement - youth control
- sports and recreation - team sports - more capability
- places for youth to go
- life skills
- traditional and cultural identity

Nanaimo

- a community gym - there is not 1 in the city
- community recreation workers
- Aboriginal youth home
- healing centre

2. Thinking about these priorities, what kinds of obstacles do youth face in relation to existing organizations and structures of decision-making or program and service delivery?

Happy Valley

- municipal government - provincial matters is where biggest difficulty is
- involvement increasing
- policing better
- Labrador school board - 2 textbooks - Inuit & Metis - but not a lot of input
- need for change
- Council - some Aboriginals on Council but no formal mechanism for Aboriginal involvement
- people are united as Labradorians not Newfoundlanders.



**NATIONAL ASSOCIATION OF FRIENDSHIP CENTRES
LAW COMMISSION OF CANADA**

URBAN ABORIGINAL GOVERNANCE: ENGAGING YOUTH

DIALOGUE CIRCLE MODERATOR'S GUIDE

Site: _____

Duration THEMES & TOPICS
in Minutes

5 WELCOME DIALOGUE CIRCLE PARTICIPANTS

- ◆ Introduction of moderator & observers
- ◆ Note use of recording devices transcriber and stress ANONYMITY of individuals
- ◆ Objective:
- ⇒ Basic points:

As you may know from the background material provided to you (wave copy), we are doing a study on urban Aboriginal governance, with a particular focus on what models or approaches make most sense to Aboriginal youth.

The session today will take about 2 hours and we will be covering a number of issues and themes of importance to the Law Commission and to the NAFC. We also want to have time to explore topics of importance to you, so please feel free to raise items for discussion. Just to give you a sense of the overall agenda I have a simple point-form agenda. There is time set aside at the end of the session for discussion of matters that you want to address that we might not otherwise cover.

5 MUTUAL INTRODUCTIONS

Have participants introduce themselves and, if relevant, describe what organization, youth group or institution they are affiliated with or represent.

25 THE URBAN ABORIGINAL COMMUNITY

Review the following topics, sponsoring dialogue on key questions:

1. First, let's have a discussion about the nature of this community – and particularly the Aboriginal residents and those who frequently use services and programs based here.
 - ◆ Probe perceptions of size of Aboriginal community, make up in relation to different Aboriginal origins, status, etc.
 - ◆ Probe relations between different Aboriginal groups regarding the population in this urban area.
2. Probe perceptions of Aboriginal youth population
 - ◆ what % of total?;
 - ◆ is this higher or lower than normal?
 - ◆ Discuss the characteristics of the youth population – are they usually living with their families; boarding; are they highly mobile in and out of this community?
3. Now, let's briefly discuss relations between Aboriginal and non-Aboriginal people in this area:
 - ◆ Probe: are there points of contention or friction over certain issues?
 - ◆ Do local authorities encourage Aboriginal involvement in design or delivery of programs and services?



25 ENGAGING YOUTH IN GOVERNANCE

Lets now spend 20 minutes or so to examine the challenge of engaging youth in decision-making and community governance.

1. First, what, in your views, are the main priorities for youth in this urban area (start by asking youth, and then probe views of others)
2. Thinking about these priorities, what kinds of obstacles do youth face in relation to existing organizations and structures of decision-making or program and service delivery? (Probe accountability; control, relevance to youth, physical access issues, etc.)
3. Overall, what would people think are the main lessons to be learned about how to engage youth in community decision making? What are the positive elements for a successful youth approach to self-government? What elements might lead to failure in this area?

15 REFRESHMENT BREAK

PROBE PARTICIPANTS ABOUT DOCUMENTATION AVAILABLE ON GOVERNANCE OR YOUTH IN THIS TOWN)

10 SELF-GOVERNMENT

We want to focus some attention on how the Aboriginal population in this area might approach self-government, as well as on what role that Youth might see for themselves in self-government. We have a hand-out or reference sheet to make matters a little bit easier for everyone (hand-out models sheet). Before starting our dialogue, I will just summarize for you what each of these models is meant to mean, and where these models came from.

(Review the three basic models in relation to wider project review.)

15 Self-Government Models

1. Lets start things off with a round-table discussion about what self-government in the urban area means to each of you. What are the top 2 or 3 things you associate with self-government? (Probe involvement in defining what self-government means in connection with “representation”, “accountability”, “control”; relation to lands and resources, culture, etc.)
2. There are a number of common attitudes and issues that come up in discussions about self-government (Raise 3-4 main lines of debate)
 - ◆ What are your views on these different attitudes - which ones strike a chord with you? Which ones do you find off-base or mis-informed? (As soon as discussion gels around models or approaches, lead to models dialogue below)
3. Now lets discuss the three main approaches or models of self-government.
 - ◆ Nation Specific
 - ◆ Community wide
 - ◆ Urban reserve or neighbourhood majority models(For each model: Probe:
 - ◆ which model is most relevant overall to this community?
 - ◆ Do different Aboriginal groups likely take a common, or different views about self-government in this urban area?
 - ◆ what of the effectiveness of each model in terms of cost, scope, capacity?
 - ◆ which approach be most inclusive? Could some people find themselves excluded or left out of urban governance if a particular route is taken?

4. What about the relevance to youth for these three models? Lets discuss how Youth would be affected - positively or negatively - in each of these approaches. (Probe whether Aboriginal urban youth are forging new cultural ties and identities, or rather look to the urban area as only a temporary community or home for themselves. Probe impacts such as division of peer groups or cross-group interaction, effects of dating or marriage patterns; impacts due to future involvement or access to land claims or treaty benefits, or membership in non-local communities, etc.)

10 Self-Government Priorities

Now lets spend a short time on top priorities for self-government in this urban area. What are your views about the main priorities for the Aboriginal community to take charge of? (Probe if necessary in areas of Justice policing; education; employment training; health, access to traditional lands/resources)

10 FROM DIALOGUE TO ACTION: NEXT STEPS

In closing our formal session, we would like to ask you to spend a few minutes in discussing what are the next steps that should be taken to build self-government and to engage youth in community action. What are the top priorities for action, in your views?

(Probe: depending on model(s) of relevance, should there be a plebiscite of urban Aboriginal residents about priorities and approaches?; should the Friendship Centre play a role in extending the debate with key stakeholders like First Nations, Metis, Inuit, municipal, provincial and other parties? Would a pilot project demonstrating governance over one or more activities attract support in this town?; generally, what steps could be taken to engage debate of the key players, and move beyond dialogue toward action?)

10 OTHER TOPICS

Before we close this dialogue circle, are there other issues or concerns that people have to raise?

(Probe participants who have suppressed interventions or been "talked over" by others)

CONCLUSION

5 Thank the participants for their contribution

Ask the participants if they though that taking part in the circle was useful to them

Indicate that follow-up questions about the project should be made through the FC Executive Director.





SITE STUDY GUIDE

Goal of the Site Studies

Based on a review of secondary sources, reports and telephone interviews with a sample of urban sites, your urban area has been chosen for more detailed analysis. The site study phase of the NAFC-LCC research project has three aspects:

1. documenting institutional capacities for servicing Aboriginal youth, including those to be found in educational, social service, occupational and representative Aboriginal organizations;
2. examining the institutions involved to probe their interconnections and orientations to urban Aboriginal governance, and;
3. holding dialogue circles amongst key stakeholders, including youth representatives, to facilitate documentation and analysis and to discuss topics relating to the challenge of engaging youth in wider urban Aboriginal governance initiatives;

A *dialogue circle* is a form of focus group that is intended to generate discussion and interaction amongst participants as well as to provide the researchers with feed-back on key questions that will be put to the session by the moderator. The dialogue circle being planned for your town or city is intended to bring together a range of interests and view-points in order to assist us in discussing obstacles to engaging youth in urban Aboriginal governance as well as options to make engagement more successful.

Dialogue Circles: Size, Timing & Composition

Size of Group & Logistics

The dialogue circle is intended to involve no fewer than 8 and no more than 12 individuals, not including facilitators and staff support. We are budgeted for no more than 12 paid participants, and so any numbers higher than that would have to be drawn from categories of participants who are not able to accept an inducement (e.g., governmental representatives).

Timing

The dialogue circle will run on average from 2.0 to 2.5 hours in total (i.e., a morning, an afternoon or an evening session). Specific blocks of time will be worked out between you and NAFC coordinators, but generally will be held in the evenings or on week-ends in order to insure the participation of youth and those unable to take time off from work. In some cases, where day-time sessions are not problematic for potential participants, this should be explored.

Composition

It is important that good group balance, as well as dynamics, be engaged in the dialogue circle. Balance is achieved by making sure that a range of persons with different backgrounds and interests or expertise is involved. Group dynamic is achieved by avoiding some individuals being intimidated into silence, and avoiding the over dominance by others in a particular session. For example, bringing together highly articulate and well educated social workers together with youth aged 13-16 would not likely generate effective dialogue. Achieving balance and dynamics involves a trade-off between broad representation and the ability of people to comfortably talk with each other.



The following indicates three types of participants for your dialogue circle: a) high priority; b) important but not essential, and c) desirable if possible:

A. High Priority Participants

1. Aboriginal youth representative(s), preferably including an elected or appointed spokesperson or leader with accountability to a wider group involved in services or programs to youth, or in youth representation on elected or political bodies in the urban area. Attempt to insure that there is at least 1 representative from youth in the 13-17 age bracket (i.e., actively in school years) and at least 1 from the 18-25 age bracket.
2. Youth program(s) representative and/or program coordinators: If there are more than handful of Aboriginal youth programs being operated in an urban area, attempt to insure a range of participation, but without leading to imbalance by obtaining too many youth in total (i.e., don't go beyond 4 youth or youth program representatives for a total group of 8, or beyond 6 for a total group of 12);
3. Aboriginal representative organizational representatives (First Nation, Metis, Inuit, urban governance council, etc.). It is important that at 1-3 (but no more) participants be from organizations with an accountable, elected mandate to people in the urban area. While some groups, such as First Nation councils based on reserves, may not be directly accountable or representative, they should also be asked to send a representative where there are a considerable number of First Nations people (whether status or non-status) in the urban setting who view the non-urban communities involved as important to their identity or rights.

B. Important Participants

4. Friendship Centre Board members: This is particularly important where the Board represents a variety of interests and institutions, including First Nation, Metis or Inuit bodies that have membership beyond the urban setting.
5. Representatives of municipal, police, judicial or other authorities that are involved in programs targeting urban Aboriginal youth or the wider Aboriginal community, particularly where self-government or "governance" initiatives are being discussed or implemented.
6. One elder, both in order to provide an opening and/or closing ceremony, and to speak to inter-generational issues important to urban governance and to youth.
7. Gender balance and/or Aboriginal Women's representative: If there is an active Aboriginal women's group in the urban area, they should be invited to send an appropriate participant. Otherwise, try and obtain a gender balance as between males and females in the overall dialogue circle.

C. Desirable Participants

8. Youth Education/Training institution representatives. It would be desirable if someone from the school system (e.g., board or school) with strong interests in Aboriginal youth education, or from youth training institution (Aboriginal run or not) is included in order to address the crucial role of education and training for both governance and youth. This is particularly the case where there are no other representatives from the "High Priority Participants" list who are able to speak to youth and education.



9. Provincial government representatives. Where there is a provincial representative who can speak to urban governance, or to urban Aboriginal youth matters, they should be invited. In some cases, a municipal authority or representative can “double-up” in this role - depending upon their sensitivities about speaking for the province. In other cases, this may be best avoided. A local member of the Provincial or Territorial Legislature might also be invited to provide this input - as long as this is not likely to suppress group dynamics.
10. Federal agency or authority: Where a federal representative - such as from the Department of Indian Affairs, HRDC, Health or some other agency is available and knowledgeable, they might be invited to participate. Alternatively, invite a local Member of Parliament unless it is judged by the coordinator to lead to poor group dynamics.
11. Parents’ group or representatives from the Aboriginal community at large. It would be useful to have the views of 1-3 parents in the dialogue circle, particularly where active groups exist to address key youth-oriented issues (e.g., education, street crime or gangs, etc.). Generally speaking most non-youth participants will be parents, but this cannot always be guaranteed to provide the kind of focus and interest of a dedicated parent with Aboriginal youth living in the urban area concerned.

D. Exclusion from Participation

It is important to note that certain individuals should not be included as participants in the dialogue circle. The following types of person should not be invited or, if individuals are contacted and found to fall within these categories in the course of discussion, they should be informed that the dialogue circle is unable to accommodate them due to potential conflicts of interest or considerations about the balance and representivity of the group.

12. Persons under the age of 13;
13. Persons involved in professional market research, members of the professional media or on the staff or Board of the Law Commission of Canada, and;
14. Aboriginal persons who do not live in the urban area and who do not use urban Aboriginal institutions (except in the case of a Metis, First Nations or Inuit organizational representative as discussed above);

A Reminder about Balance and Group Dynamic

The above listing of group composition is important to go through in some detail to insure a broad balance of representation. However, the following is a reminder to provide both balance and group dynamic:

- Insure that there is a mix of older and younger persons, and a mix of both 13-17 youth and over 18 youth.
- Insure that there is a blend of those with different educational backgrounds (i.e., no schooling or non-school leavers; those in college and those who have attended or completed college or university) without having too many persons in either category.
- Try to insure that there is an overall gender balance (e.g., no more than 8 males or females per group for a 12-person group; and no more than 5 males or females for an 8-person group)



THE NATIONAL ASSOCIATION OF FRIENDSHIP CENTRES

AND



THE LAW COMMISSION OF CANADA